

## Extra Ordinary Part - V / 1999

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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL.]

TUESDAY, FEBRUARY 23, 1999 / PHALGUNA 4, 1920

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

#### THE GUJARAT STATUTORY BODIES LAWS (AMENDMENT AND VALIDATION) BILL, 1999.

Gujarat Bill No. 1 of 1999.

#### A BILL

*further to amend the laws relating to statutory bodies and to validate termination of tenure of certain offices of such bodies.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Statutory Bodies Laws (Amendment and Validation) Act, 1999. Short title.

2. In this Act, unless the context otherwise requires,— Definitions.

(i) "laws relating to statutory bodies" means enactments specified in column 2 of the Schedule;

(ii) "relevant provision" means the provision relating to tenure of office of a Chairman, Vice-Chairman and directors or, as the case may be, members, of a statutory body, in each of laws relating to statutory bodies, as amended by section 3;

(iii) "statutory body" means the Authority, Board or Corporation constituted under an enactment specified in column 2 of the Schedule.

Amendment of laws relating to statutory bodies.

3. Each of the enactments specified in column 2 of the Schedule shall be amended to the extent and in the manner specified against it in column 3 of the said Schedule.

Validation of termination of tenure of office of Chairman, Vice-Chairman and directors or members of statutory bodies.

4. The tenure of office of a Chairman, Vice-Chairman and directors or, as the case may be, members, of a statutory body, terminated immediately before the commencement of this Act shall be and shall be deemed always to have been validly terminated in accordance with law, as if the relevant provision had been included in and formed part of the laws relating to statutory bodies and had been in force at all material times when the tenure of office of Chairman, Vice-Chairman and directors or, as the case may be, members, of a statutory body was terminated and accordingly no suit or other proceeding questioning the validity of such termination shall be maintained or continued in any court.

Chairman, Vice-Chairman, director and member of statutory bodies to hold office during pleasure of State Government.

5. A Chairman, Vice-Chairman and director or, as the case may be, member, who is appointed or nominated as such by the State Government in a statutory body before the commencement of this Act and who continues to hold such office on such commencement shall be and shall be deemed always to have been appointed or nominated to hold such office during the pleasure of the State Government, notwithstanding anything contrary contained in the law relating to statutory bodies or any rules, regulations or orders made thereunder.

**SCHEDULE**  
(See section 3)

No. 1	Name of enactments. 2	Extent of amendments. 3
1.	The Bombay Labour Welfare Fund Act, 1953 (Bom. XL of 1953).	<p>In section 4, for sub-section (3), the following sub-section shall be substituted, namely :—</p> <p>"(3) The members of the Board shall hold office during the pleasure of the State Government."</p> <p>(2) In section 6, in sub-section (2), the words "and a member so nominated shall hold office for the unexpired portion of the term of the office of his predecessor" shall be deleted.</p>
2.	The Gandhidham (Development and Control on Erection of Buildings) Act, 1958 (Bom. XIX of 1958).	<p>In section 3, for sub-section (4), the following sub-section shall be and shall be deemed always to have been substituted, namely :—</p> <p>"(4) (a) The Chairman, Secretary and the members other than <i>ex-officio</i> members, of the Authority nominated by the State Government shall hold office during the pleasure of the State Government;</p> <p>(b) The members nominated by the Central Government under clause (d) of sub-section (2) shall hold office during the pleasure of the Central Government."</p>
3.	The Bombay Khadi and Village Industries Act, 1960 (Bom. XIX of 1960).	<p>In section 4, in sub-section (1), for the words "hold office for such period as the State Government may, by general or special order, direct", the words "hold office during the pleasure of the State Government" shall be and shall be deemed always to have been substituted.</p>
4.	The Gujarat Housing Board Act, 1961 (Guj. XXVIII of 1961).	<p>In section 8, for sub-section (1), the following sub-section shall be substituted, namely :—</p> <p>"(1) The Chairman and the members shall hold office during the pleasure of the State Government."</p>
5.	The Gujarat Industrial Development Act, 1962 (Guj. XXIII of 1962).	<p>In section 6, for sub-section (1), the following sub-section shall be and shall be deemed always to have been substituted, namely :—</p> <p>"(1) (a) The Chairman, Vice-Chairman and Directors of the Corporation nominated by the State Government shall hold office during the pleasure of the State Government;</p>



No. 1	Name of enactments. 2	Extent of amendments. 3
6.	The Gujarat Medical Practitioners' Act, 1963 (Guj. VI of 1964).	<p>(b) The director nominated under clauses (b) and (c) of sub-section (1) of section 4 shall hold office during the pleasure of respective Board."</p> <p>In section 5, in sub-section (3),—</p> <p>(1) in clause (a), for the words "the term of office of a member of the Board, whether elected or nominated," the words "subject to the provision of clause (b), the term of office of a member of the Board" shall be substituted;</p> <p>(2) after clause (a), the following clause shall be inserted, namely :—</p> <p>"(b) the members nominated under clause (a) of sub-section (2) of section 3 shall hold office during the pleasure of the State Government."</p>
7.	The Gujarat Tribal Development Corporation Act, 1972 (Guj. 5 of 1972).	<p>(1) In section 7, in sub-section (3), the words "and a director nominated to fill such vacancy shall hold office for the unexpired portion of the term of his predecessor" shall be deleted.</p> <p>(2) For section 8, the following section shall be substituted, namely :—</p> <p>"8. The directors shall hold office during the pleasure of the State Government."</p> <p>(3) In section 11, in sub-section (1), for the words and figure "Notwithstanding anything contained in section 8, the State Government", the words "The State Government" shall be substituted."</p>
8.	The Gujarat Rural Housing Board Act, 1972 (Guj. 22 of 1972).	<p>In section 8, for sub-section (1), the following sub-section shall be substituted, namely:—</p> <p>"(1) The Chairman and the members shall hold office during the pleasure of the State Government."</p>
9.	The Gujarat Slum Areas (Improvement, Clearance and Redevelopment) Act, 1973 (Guj. 11 of 1973).	<p>For section 23, the following section shall be and shall be deemed always to have been substituted, namely:—</p>

Term of office.

No. 1	Name of enactments. 2	Extent of amendments. 3
	Terms of office and conditions of service of Chairman and members.	<p>"23. (1) The Chairman and other members of the Board shall hold office during the pleasure of the State Government.</p> <p>(2) The conditions of the service of the Chairman and the members of the Board shall be such as may be prescribed."</p>
10.	The Gujarat Secondary Education Act, 1972 (Guj. 18 of 1973).	<p>(1) For section 5, the following section shall be substituted, namely:—</p> <p>"5. (1) The Chairman, Deputy Chairman and nominated members shall hold office during the pleasure of the State Government.</p> <p>(2) The salaries or, as the case may be, honorarium, allowances and other conditions of service of the Chairman and the Deputy Chairman shall be such as may be determined by the State Government."</p> <p>(2) In section 6, in sub-section (1), for the words "ex-officio members", the words "ex-officio members and nominated members" shall be substituted.</p>
11.	The Gujarat Town Planning and Urban Development Act, 1976 (President's Act No. 27 of 1976).	<p>In section 5,—</p> <p>(1) in sub-section (5), for the words "The Term of office and conditions of service", the words "The conditions of service" shall be and shall be deemed always to have been substituted;</p> <p>(2) after sub-section (5), the following sub-section shall be and shall be deemed always to have been inserted, namely:—</p> <p>"(5A) The Chairman and the members of an Area Development Authority other than ex-officio members shall hold office during the pleasure of the State Government."</p> <p>(3) in sub-section (7), for the portion beginning with the words "as the case may be," and ending with the words "vacancy had not occurred", the words "as the case may be," shall be and shall be deemed always to have been substituted.</p>

No. 1	Name of enactments. 2	Extent of amendments. 3
12.	The Gujarat Municipal Finance Board Act, 1979 (Guj. 12 of 1979).	<p>(1) In section 6, for sub-section (1), the following sub-section shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(1) The Chairman and the members other than those appointed by virtue of their office shall hold office during the pleasure of the State Government."</p> <p>(2) In section 8, for the portion beginning with the words "as early as practicable" and ending with the words "had not occurred", the words "as early as practicable" shall be and shall be deemed always to have been substituted.</p> <p>(3) In section 28, in sub-section (2), for clause (a), the following clause shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(a) the honorarium, sitting fees and allowances of the Chairman and sitting fees and allowances including compensatory allowance of the members under sub-section (3) of section 6;"</p>
13.	The Gujarat Water Supply and Sewerage Board Act, 1978 (Guj. 18 of 1979).	<p>In section 6, for sub-sections (1) to (4), the following sub-section shall be substituted, namely:—</p> <p>"(1) The Chairman, Member-Secretary and the members other than <i>ex-officio</i> members shall hold office during the pleasure of the State Government :</p> <p>Provided that a person appointed as member under clause (f) of sub-section (1) of section 4 shall cease to be a member, if he ceases to be the elected head of the local body concerned."</p>
14.	The Gujarat Unprotected Manual Workers (Regulation of Employment and Welfare) Act, 1979 (Guj. 25 of 1979).	<p>(1) In section 6, for sub-section (7), the following sub-section shall be substituted, namely:—</p> <p>"(7) The Chairman and the members shall hold office during the pleasure of the State Government."</p> <p>(2) In section 12, for the portion beginning with the words "the vacancy shall be filled" and ending with the words "vacancy had not occurred", the words "the vacancy shall be filled not later than ninety days from the date of receipt of such communication:" shall be substituted.</p>

No. 1	Name of enactments. 2	Extent of amendments. 3
15.	The Gujarat Maritime Board Act, 1981 (Guj. 30 of 1981).	<p>(1) In section 5, in sub-section (2), the portion beginning with the words "and in any case" and ending with the words "State Government" shall be deleted.</p> <p>(2) In section 8,—  (a) to sub-section (2), the proviso shall be deleted.  (b) sub-section (4) shall be deleted.</p>
16.	The Gujarat Scheduled Castes Development Corporation Act, 1985 (Guj. 10 of 1985).	<p>(1) In section 6, for sub-sections (1) and (2), the following sub-section shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(1) The director shall hold office during the pleasure of the State Government :".</p> <p>(2) In section 7, the words "and a person nominated as director to fill up such vacancy shall hold office for the unexpired portion of the term of his predecessor" shall be and shall be deemed always to have been deleted.</p> <p>(3) In section 10, in sub-section (1), for the words and figure "Notwithstanding anything contained in section 6, the State Government", the words "The State Government" shall be and shall be deemed always to have been substituted.</p>
17.	The Gujarat Backward Classes Development Corporation Act, 1985 (Guj. 11 of 1985).	<p>(1) In section 7, for sub-sections (1) and (2), the following sub-section shall be and shall be deemed always to have been substituted, namely:—</p> <p>"(1) The director shall hold office during the pleasure of the State Government."</p> <p>(2) In section 8, the words "and a person nominated as director to fill up such vacancy shall hold office for the unexpired portion of the term of his predecessor" shall be and shall be deemed always to have been deleted.</p> <p>(3) In section 11, in sub-section (1), for the words and figure "Notwithstanding anything contained in section 7, the State Government", the words "The State Government" shall be and shall be deemed always to have been substituted.</p>

**STATEMENT OF OBJECTS AND REASONS**

The laws relating to statutory bodies lay down different term of office of the Chairman, Vice-Chairman and Directors or, as the case may be, the members, of such bodies. In order to have uniformity of laws relating to statutory bodies, it is considered necessary to amend such laws so as to provide that the Chairman, Vice-Chairman and Directors or members of statutory bodies shall hold office during the pleasure of the State Government.

In order to ensure smooth implementation of the policy of the present Government, it was considered necessary to replace the Chairman, Vice-Chairman and Directors or, as the case may be, members of statutory bodies appointed by the former Government. Such action of replacement was challenged before the Gujarat High Court in SCA No. 1708 of 1998 and other petitions and the Gujarat High Court has upheld the replacement. However, to leave no room for doubt, it is considered necessary to validate the aforesaid replacement.

On the basis of the same principle, the provision is also made to the effect that the Chairman, Vice-Chairman and Directors or members of statutory bodies who were appointed before the commencement of this Act and continued as such shall hold their office during the pleasure of the State Government.

This Bill seeks to amend the laws relating to statutory bodies to achieve the aforesaid objects.

VAJUBHAI VALA.



### MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of the legislative powers in the following respects:—

*Clause 3.*—This clause amends the enactments specified in the Schedule. In the Schedule,—

(1) Sub-section (2) of section 23 of the Gujarat Slum Areas (Improvement, Clearance and Redevelopment) Act, 1973 proposed to be amended by item at serial No. 9 empowers the State Government to prescribe by rules the conditions of service of the Chairman and the members of the Board.

(2) Sub-section (2) of section 5 of the Gujarat Secondary Education Act, 1972 proposed to be amended by item at serial No. 10 empowers the State Government to determine salaries, honorarium, allowances and other conditions of service of the Chairman and the Deputy Chairman.

(3) Clause (a) of sub-section (2) of section 28 of the Gujarat Municipal Finance Board Act, 1979 proposed to be amended by item at serial No. 12 empowers the State Government to prescribe by rules the honorarium, sitting fees and allowances (including compensatory allowance) of the Chairman and members.

2. The delegation of legislative powers, as aforesaid, is necessary and is of a normal character.

Dated the 22nd February, 1999.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 23rd February, 1999.



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PUBLISHED BY AUTHORITY

VOL. XL ]

WEDNESDAY, FEBRUARY 24, 1999/PHALGUNA 5, 1920

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## PART - V

### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :—

### THE GUJARAT TOWN PLANNING AND URBAN DEVELOPMENT (AMENDMENT) BILL, 1999.

#### GUJARAT BILL NO. 2 OF 1999.

##### A BILL

to amend the Gujarat Town Planning and Urban Development  
Act, 1976.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Town Planning and Urban Development (Amendment) Act, 1999.

Short title  
and  
commence-  
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

President's  
Act No. 27  
of 1976.

2. (1) In the Gujarat Town Planning and Urban Development Act, 1976 (hereinafter referred to as "the principal Act"), in section 2,—

Amendment  
of section 2 of  
President's  
Act No. 27 of  
1976.

(i) in clause (iv), after the words and figure "under section 5", the words, brackets and figure "and includes a local authority, designated as such under sub-section (1) of section 6 or Government company designated as such under section 6A" shall be inserted.

1 of 1956.

(ii) after clause (xxix), the following clause shall be added, namely:—

"(xxx) 'Government company' means a Government company registered under the Companies Act, 1956 which has one of its objects the development of an area;"



Amendment  
of section 5 of  
President's  
Act No. 27 of  
1976.

3. In the principal Act, in section 5, in sub-section (3), for clause (iii), the following clauses shall be substituted, namely:—

"(iii) such persons not exceeding four from amongst the members of the local authorities functioning in the development area as may be nominated by the State Government;

(iii-a) the Presidents of the district panchayats functioning in the development area or in any part thereof, *ex-officio*;"

Amendment  
of section 6 of  
President's  
Act No. 27 of  
1976.

4. In the principal Act, in section 6,—

(1) in sub-section (2), after clause (ii), the following clauses shall be inserted, namely:—

(iii) "One official of the State Government to be nominated by the State Government, *ex-officio*;

(iv) Chief Officer or, as the case may be, Secretary of the local authority."

(2) in sub-section (3), after the words "Standing Committee", the words "or, as the case may be, Executive Committee" shall be inserted.

Insertion of  
new section  
6A in  
President's  
Act No. 27 of  
1976.

5. In the principal Act, after section 6, the following section shall be inserted, namely:—

Power to  
designate  
Government  
company as  
an Area  
Development  
Authority.

"6A. The State Government may, instead of constituting an area development authority for a development area, designate the Government company as the area development authority for any development area."

Amendment  
of section 7 of  
President's  
Act No. 27 of  
1976.

6. In the principal Act, in section 7, in sub-section (1), in clause (ii), after the words "the preparation", the words "and execution" shall be inserted.

Amendment  
of section 17  
of President's  
Act No. 27 of  
1976.

7. In the principal Act, in section 17,—

(1) in sub-section (1), in clause (d), for the word, brackets and letter "clause (b)", the words, brackets and letters "clause (a), clause (b)" shall be substituted;

(2) in sub-section (2), for the word, brackets and letter "clause (n)", the words, brackets and letters "clause (n) or clause (o)" shall be substituted.

Amendment  
of section 20  
of President's  
Act No. 27 of  
1976.

8. In the principal Act, in section 20, in sub-section (1), for the words, brackets and letters "clause (k) or clause (n)", the words, brackets and letters "clause (f), clause (k), clause (n) or clause (o)" shall be substituted.



9. In the principal Act, in section 22,—

(1) in sub-section (1), the words "and not by any other authority" occurring at the end shall be deleted.

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The State Government may, by notification in the *Official Gazette*, include in or exclude any area from an urban development area, amalgamate two or more urban development areas into one urban development area, sub-divide any urban development area into different urban development areas and include such sub-divided urban development area in any other urban development area."

(3) in sub-section (4),—

(a) in clause (ii), for the words "two in number", the words "four in number" shall be substituted;

(b) in clause (iii), for the words "two officials", the words "three officials" shall be substituted;

(c) after clause (vi), the following clause shall be inserted, namely:—

"(vi-a) the Municipal Commissioner of the Municipal Corporation, if any, functioning in the urban development area, *ex-officio*;"

Amendment  
of section 22  
of President's  
Act No. 27 of  
1976.

10. In the principal Act, in section 23, in sub-section (1), in clause (ii), after the words "the preparation", the words "and execution" shall be inserted.

Amendment  
of section 23  
of President's  
Act No. 27 of  
1976.

11. In the principal Act, after section 23, the following section shall be inserted, namely:—

Insertion of  
new section  
23-A in  
President's  
Act No. 27 of  
1976.

Entrustment  
of powers and  
functions to  
Government  
company.

"23-A The State Government may, by notification, in the *Official Gazette*, entrust to the Government company, all or any of the powers and functions of the appropriate authority."

12. In the principal Act, in section 40, in sub-section (3), for clause (jj), the following shall be substituted, namely:—

Amendment  
of section 40  
of President's  
Act No. 27 of  
1976.

"(jj) (a) the allotment of land from the total area covered under the scheme, to the extent of:—

(i) fifteen per cent, for roads,

(ii) five per cent. for parks, play grounds, gardens and open space,

(iii) five per cent. for social infrastructure such as schools, dispensary, fire brigade, public utility place as earmarked in the Draft Town Planning Scheme, and

(iv) fifteen per cent. for sale by appropriate authority for residential, commercial or industrial use depending upon the nature of development.

(b) the proceeds from the sale of land referred to in para (iv) of sub-clause (a) shall be used for the purpose of providing infrastructural facilities in the area covered under the scheme.

(c) the land allotted for the purposes referred to in paragraphs (ii) and (iii) of sub-clause (a) shall not be changed by variation of schemes for the purpose other than public purpose.

Amendment  
of section 42  
of President's  
Act No. 27 of  
1976.

13. In the principal Act, in section 42, in sub-section (1),—

(a) for the words "twelve months", the words "nine months" shall be substituted;

(b) in the proviso, for the words "six months", the words "three months" shall be substituted.

Amendment  
of section 48  
of President's  
Act No. 27 of  
1976.

14. In the principal Act, in section 48,—

(1) in sub-section (1), for the words "four months", the words "three months" shall be substituted;

(2) in sub-section (2), for the words "six months", the words "three months" shall be substituted.

Insertion of  
new section  
48-A in  
President's  
Act No. 27 of  
1976.

15. In the principal Act, after section 48, the following section shall be inserted, namely:—

Vesting of  
land in  
appropriate  
authority.

"48-A. (1) Where a draft scheme has been sanctioned by the State Government under sub-section (2) of section 48, (hereinafter in this section, referred to as 'the sanctioned draft scheme'), all lands required by the appropriate authority for the purposes specified in clause (c), (f), (g) or (h) of sub-section (3) of section 40 shall vest absolutely in the appropriate authority free from all encumbrances.

(2) Nothing in sub-section (1) shall affect any right of the owner of the land vesting in the appropriate authority under that sub-section.

(3) The provisions of section 68 and 69 shall *mutatis mutandis* apply to the sanctioned draft scheme as if,—

(i) sanctioned draft scheme were a preliminary scheme, and

(ii) in sub-section (1), for the words "comes into force", the words, brackets and figures "the date on which the draft scheme is sanctioned under sub-section (2) of section 48" were substituted.

Amendment  
of section 50  
of President's  
Act No. 27 of  
1976.

16. In the principal Act, in section 50, after sub-section (1), the following proviso shall be added, namely:—

"Provided that the State Government may, on the request made by the Appropriate Authority, appoint a Town Planning Officer within one month from the date of the publication of the Draft Scheme under sub-section (1) of section 42."



17. In the principal Act, in section 51, for the proviso, the following proviso shall be substituted, namely:—

Amendment  
of section 51  
of President's  
Act No. 27 of  
1976.

"Provided that the State Government may, by order in writing, extend the said period by such further period not exceeding nine months in aggregate and any such order extending the period may be made so as to have retrospective effect :

Provided further that the State Government may, by order and for reasons to be recorded in writing, extend such further period not exceeding six months."

Appeal.

18. In the principal Act, for section 54, the following shall be substituted, namely :—

Substitution  
of section 54  
of President's  
Act No. 27 of  
1976.

"54. (1) Any decision of the Town Planning Officer under clause (iii), (iv), (vi), (vii), (viii) and (x) of sub-section (3) of section 52 shall forth with be communicated to the party concerned in the prescribed form and any party aggrieved by such decision may within one month from the date of communication of decision, present an appeal to the Board of Appeal constituted under section 55.

Guj. of  
1999.

(2) (a) A Board of Appeal existing immediately before the commencement of the Gujarat Town Planning and Urban Development (Amendment) Act, 1999 shall continue to hear and decide appeal until the date on which the Board of Appeal is constituted (hereinafter referred to as "the said date"), by the State Government under section 55, and

(b) all appeals pending on the said date before any Board of Appeal shall stand transferred to the Board of Appeal so constituted.

19. In the principal Act, in section 55, for sub-section (1), the following shall be substituted, namely:—

Amendment  
of section 55  
of President's  
Act No. 27 of  
1976.

"(1) (a) The State Government shall, from time to time by an order published in the *Official Gazette*, constitute a Board of Appeal for hearing and deciding appeals under section 54.

(b) The Board of Appeal shall consist of three Members, one of whom shall be its President and two persons, possessing such qualifications and experience as may be prescribed, as assessor.

(c) The President shall be a person who is or has been a District Judge or a Judge of the City Civil Court, Ahmedabad.

(d) The terms of appointment of the President of the Board of Appeal and conditions of service shall be such as may be prescribed.

20. In the principal Act, after section 70, the following section shall be inserted, namely:—

Insertion of  
new section  
70A in  
President's  
Act No. 27 of  
1976.

Variation  
of Town  
Planning  
Scheme  
for land  
allotted  
for  
public  
purpose.

"70 A. If at any time after the final town planning scheme comes into force, the appropriate authority is of the opinion that the purpose for which any land is allotted in such scheme under any of the paragraphs (ii) and (iii) of sub-clause (a) of clause (jj) of sub-section (3) of section 40 requires to be changed to any other purpose specified in any of the said paragraphs, the appropriate authority may make such change after following the procedure relating to amendment of regulations, specified in section 72 as if such change were an amendment of regulations."



**Amendment of  
section 117 of  
President's Act  
No. 27 of 1976.**

**21. In the principal Act, in section 117, clause (a) shall be deleted.**

**Amendment  
of section 118  
of President's  
Act No. 27 of  
1976.**

**22. In the principal Act, in section 118, in sub-section (2), in clause (xxx), for the words "the qualifications", the words "the terms of appointment and conditions of service of President; and the qualifications" shall be substituted.**



**STATEMENT OF OBJECTS AND REASONS**

With a view to providing for expeditious implementation of the Gujarat Town Planning and Urban Development Act, 1976, it is considered necessary to amend certain provisions of the said Act.

The following notes on clauses explain important provisions of the Bill:—

*Clause 3.*—This clause seeks to amend clause (iii) of section 5 so as to,—

(i) take power to State Government to nominate four persons from amongst the members of the local authorities functioning in the Development Area,

(ii) provide that the Presidents of the District Panchayats functioning in the Development Area shall be the members of the Area Development Authority.

*Clause 4.*—This clause seeks to amend section 6 so as to take power to the State Government to nominate one official of the State Government to be a member of the Planning Committee and to provide that Chief Officer or Secretary of the Local Authority shall be the member of the said Committee.

*Clause 5.*—A new section 6A proposed to be inserted by this clause empowers the State Government to designate the Government company which has one of its objects the development of an area as an Area Development Authority for any development area.

*Clause 9.*—(1) This clause seeks to insert new sub-section (2A) in section 22 which empowers the State Government to include any area in or exclude any area from urban development area or to amalgamate two or more urban development areas.

(2) This clause also seeks to amend sub-section (4) of section 22 so as to increase the number of members of local authority from two to four members and official members from two to three, in an urban development authority. The amendment also provides that the Municipal Commissioner shall be one of the members of the urban development authority.

*Clause 11.*—New section 23A proposed to be inserted by this clause empowers the State Government to entrust all or any of the powers of the appropriate authority to the Government company.

*Clause 12.*—Clause (j) of sub-section (3) of section 40 proposed to be substituted by this clause provides for allotment of the land for the various public purposes and the extent of allotment specified there in and also provide that proceeds from the sale of the land reserved for the residential, commercial or industrial purpose shall be used for providing infrastructural facilities in the area covered under the scheme.

*Clause 13.*—This clause seeks to amend sub-section (1) of section 42 so as to reduce the period of twelve months to nine months from the date of declaration of intention to make a scheme, within which a draft scheme is to be made and provide for a maximum period of three months to which the aforesaid period could be extended.

*Clause 14.*—This clause seeks to amend section 48 so as to reduce the period of four months to three months from the date of the publication of the draft scheme within which appropriate authority shall submit the draft scheme to the State Government for sanction and to reduce the period of six months to three months within which the State Government shall either sanction or refuse to sanction such scheme.



**Clause 15.**—New section 48A proposed to be inserted by this clause provides that all lands required for the purpose of providing the matters specified in clause (c), (f), (g) or (h) of sub-section (3) of section 40 shall vest in the appropriate authority as soon as the draft scheme has been sanctioned by the State Government.

**Clause 16.**—The proviso proposed to be inserted in sub-section (1) of section 50 by this clause empowers the State Government to appoint the Town Planning Officer within one month from the date of publication of the draft under sub-section (1) of section 42, if so requested by the appropriate authority.

**Clause 17.**—This clause seeks to substitute the proviso to section 51 by another proviso which seeks to restrict the power of the State Government to extend the period of twelve months for sub-division of the Town Planning Scheme into a preliminary and final schemes to the period of nine months and for further period not exceeding six months for reasons to be recorded.

**Clause 18.**—This clause seeks to substitute section 54 so as to provide for appeals to the Board of Appeal as constituted by the State Government under section 55 and for the transfer of pending appeals to the Board of Appeal so constituted.

**Clause 19.**—This clause seeks to substitute sub-section (1) of section 55 so as to empower the State Government to constitute a Board of Appeal consisting of a person who is or has been a District Judge or a Judge of the City Civil Court, Ahmedabad and two Assessors.

**Clause 20.**—This clause seeks to insert new section 70A so as to empower the appropriate authority to change the purpose for which any land is allotted in the final Town Planning Scheme under any of the paragraphs (ii) and (iii) of sub-clause (a) of clause (jj) of sub-section (3) of section 40 to another purpose specified in any of the aforesaid paragraphs after following the procedure laid down in section 72.

**Clause 21.**—This clause seeks to delete clause (a) of section 117 so as to make development in respect of any land to be unlawful in the case where permission for development has been obtained under the Act but has not been obtained under any other law for such development.

This Bill seeks to achieve the aforesaid objects.

KAUSHIK PATEL

KAUSHIK PATEL



**FINANCIAL MEMORANDUM**

Sub-section (1) of section 55 proposed to be amended by clause 19 of the Bill empowers the State Government to constitute the Board of Appeal consisting of the President and two Assessors. The expenditure involved on account of the constitution of Board of Appeal shall be borne by the respective appropriate authority and therefore, no expenditure to be incurred on this account from the Consolidated Fund of the State.

**KAUSHIK PATEL**



## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves delegation of legislative powers in the following respects:—

*Clause 1.*—Sub-clause (2) of this clause empowers the State Government to appoint by notification in the *Official Gazette*, the date on which the Act shall come into force.

*Clause 5.*—New section 6A proposed to be inserted by this clause empowers the State Government to designate the Government company as an area development authority for the development of any development area.

*Clause 9.*—New sub-section (2A) proposed to be inserted in section 22 empowers the State Government by notification in the *Official Gazette*, include in or exclude any area from an urban development area or amalgamate or sub-divide any area of urban development area.

*Clause 11.*—new section 23A proposed to be inserted by this clause empowers the State Government by notification in the *Official Gazette*, entrusts to Government company all or any of the powers and functions of the appropriate authority.

*Clause 17.*—Proviso to section 51 proposed to be inserted by this clause empowers the State Government to extend the period not exceeding nine months within which the Town Planning Officer shall divide the Town Planning Scheme into preliminary scheme and final scheme. It also empowers the State Government to further extend the said period for reasons to be recorded in writing not exceeding six months.

*Clause 19.*—Sub-section (1) of section 55 proposed to be substituted by this clause empowers the State Government to,—

(i) constitute from time to time Board of Appeal for hearing and deciding appeal.

(ii) prescribe by rules the qualification and experience for Assessors of the Board of Appeal.

(iii) prescribe by rules, the term of appointment of the President of the Board of Appeal and the conditions of his service.

*Clause 22.*—Sub-section (2) of section 118 proposed to be amended by this clause empowers the State Government to make rules in respect of terms of appointment and conditions of service of the President of the Board of Appeal.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 24th February, 1999.

KAUSHIK PATEL.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar dated the 24th February, 1999.





# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

THURSDAY, FEBRUARY 25, 1999 / PHALGUNA 6, 1920

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

### THE BOMBAY PROVINCIAL MUNICIPAL CORPORATIONS (GUJARAT AMENDMENT) BILL, 1999.

GUJARAT BILL, NO. 3 OF 1999.

#### A BILL

to further amend the Bombay Provincial Municipal Corporations Act, 1949.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay Provincial Municipal Corporations (Gujarat Amendment) Act, 1999.

Short  
title and  
commence-  
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom.  
LIX of  
1949.

2. In the Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as "the principal Act"), in section 2,—

Amend-  
ment of  
section 2  
of Bom.  
LIX of  
1949.

(1) after clause (6), the following clause shall be inserted, namely :—

"(6A) "carpet area" means the floor area of a building excluding the area over which a wall whether outer or inner is erected;"

(2) after clause (7), the following clause shall be inserted, namely :—



(7A) "chawl" means a building consisting of two or more tenements whether having common sanitary and other facilities or not and declared as such by the Commissioner by notification in the *Official Gazette*."

Amendment of section 19A of Bom. LIX of 1949.

3. In the principal Act, in section 19A, in sub-section (2), the words, letters and figures "not exceeding Rs. 3000/-" shall be deleted.

Amendment of section 127 of Bom. LIX of 1949.

4. In the principal Act, in section 127, in sub-section (1), for clause (a), the following clause shall be substituted, namely :—

"(a) property taxes either under section 129 or property tax under section 141B;"

Insertion of heading and sections 141B to 144F in Bom. LIX of 1949.

5. In the principal Act, after section 141A, the following heading and sections shall be inserted, namely :—

### "PROPERTY TAX

Property tax at what rate leviable.

**141B.** (1) For the purposes of sub-section (1) of section 127, property tax shall, subject to such exceptions, limitations and conditions hereinafter provided, be levied annually on buildings and lands in the City at such rate per square metre of the carpet area of buildings and of the area of lands (hereinafter referred to as "the rate of tax") as the Corporation may determine.

(2) For the purpose of levy of tax on buildings in the City under sub-section (1),—

(a) the buildings may be classified into residential buildings and buildings other than residential; and

(b) the Corporation may determine one rate of tax for residential buildings and the other rate of tax for buildings other than residential :

Provided that it shall be lawful for the Corporation to determine for residential buildings, the carpet area of which does not exceed forty square metres, such rate of tax as is lower than the rate of tax determined for residential buildings generally under this sub-section.

(3) The Corporation may, subject to rules, increase or decrease or neither increase nor decrease the rate of tax determined under sub-section (1) read with sub-section (2),—

(a) in the case of residential buildings, having regard to the following factors, namely :—

(i) the market value of the land in the area of the City in which the buildings are situate;

(ii) the length of the time of the existence of the buildings,

(iii) the type of the buildings, and

(iv) whether the buildings are occupied by owners or tenants,

(b) in the case of buildings other than residential, having regard to the following factors, namely :—

(i) the market value of the land in the area of the City in which the buildings are situate,



- (ii) the length of the time of the existence of the buildings,
- (iii) the purpose for which the buildings are used, and
- (iv) whether the buildings are occupied by owners or tenants.

(4) The rate of tax determined under sub-section (1) read with sub-sections (2) and (3) shall not —

- (a) in respect of residential buildings, be less than ten rupees per square metre of carpet area and more than forty rupees per square metre of carpet area, and
- (b) in respect of buildings other than residential, be not less than twenty rupees per square metre of carpet area and more than eighty rupees per square metre of carpet area.

(5) In lieu of the property tax leviable under sub-section (1) read with sub-sections (2) and (3), there shall be levied annually on, —

- (a) residential huts, and
- (b) residential tenements in a *chawl*, each such tenement having carpet area not exceeding twenty-five square metres, such amount of tax as the Corporation may determine :

Provided that the amount so determined shall not be less than such amount as the State Government may, by notification in the *Official Gazette*, specify.

*Explanation.*— For the purpose of levy of tax under this section, where an addition is made to an existing building whereby the carpet area of that building is increased, such addition shall be treated as a separate building and the length of the time of its existence shall be computed from the year in which the addition is made.

**Property tax on what buildings and lands to be levied.**

141C. The property tax shall be levied in respect of all buildings and lands in the City except the buildings and lands vesting in the Government and used solely for the public purpose and not used or intended to be used for purpose of trade or profit, or vesting in the Corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the Government or the Corporation, respectively.

**Payments to be made to Corporation in lieu of property tax.**

141D. The State Government shall pay to the Corporation annually by the 31st day of March in every year in lieu of property tax from which buildings and lands vesting in the State Government are exempted by section 141C, eight-tenths of the amount of tax which would be payable by an ordinary owner on account of property tax if such buildings and lands had vested in him.

**Rebate in certain cases.**

141E. (1) There shall be given a rebate of fifteen per cent. of the amount of property tax leviable on buildings,—

(a) to which private water supply is not furnished from, or which are not connected by means of communication pipes with, any municipal water works, or

(b) which are not situate in any portion of the City in which the Commissioner has given public notice that the Corporation has arranged to supply water from municipal water works by means of private water connections or public stand posts, fountains or by any other means.

(2) There shall be given a rebate of twenty per cent. of the amount of property tax leviable in respect of a cellar in a residential building or a cellar on any floor other than a ground floor, of a building other than residential.

Applica-  
tion of  
certain  
sections  
to levy  
of pro-  
perty tax.

141F. The provisions of sections 138, 139, 140, 141 and 141A shall apply in relation to property tax levied under section 141B subject to modifications specified in Appendix I-A."

Insertion  
of  
Appen-  
dix I-A  
in Bom,  
LIX of  
1949.

6. In the principal Act, after Chapter XXXI, the following Appendix shall be inserted, namely :—

### "APPENDIX I-A

(See section 141F)

#### Modifications

1. In section 138,—

(1) in sub-section (1), for the words "any water tax or conservancy tax", the words "any property tax" shall be substituted;

(2) in the marginal note, for the words "Water tax or conservancy tax", the words "Property tax" shall be substituted.

2. In section 139,—

(1) in sub-section (1), for the words "property taxes" occurring at two places, the words "property tax" shall be substituted;

(2) in sub-section (2), for the words "property taxes" occurring at two places, the words "property tax" shall be substituted;

(3) in the marginal note, for the words "property taxes", the words "property tax" shall be substituted.

3. In section 140,—

(1) in sub-section (1),—

(a) for the words "any property tax", the words "property tax" shall be substituted;

(b) for the portion beginning with the words "which the rent paid by such occupier" and ending with the words "of the said premises", the following shall be substituted, namely :—

"as the carpet area of the premises occupied by such occupier bears to the aggregate carpet area of the said premises occupied by both or all of them."

(2) in sub-section (3), for the words "a property tax", the words "property tax" shall be substituted;

(3) in the marginal note, for the words "property taxes", the words "property tax" shall be substituted.

4. In section 141,—

(1) in sub-section (1),—

(a) for the words "property taxes", the words "property tax" shall be substituted;

(b) the *Explanation* shall be deleted;

(2) in the marginal note, for the words "property taxes", the words "property tax" shall be substituted;



5. In section 141A, for the proviso to sub-section (1), the following proviso shall be substituted, namely :—

"Provided that where the property tax for any official year in respect of,—

(a) a residential hut, or

(b) a residential tenement, in a *chawl*, having carpet area not exceeding twenty five square metres,

is not paid before the end of the official year to which such tax relates but is paid thereafter, the interest shall be leviable for the period commencing on the date immediately after the expiry of the official year and ending on the date of the payment of the property tax."

Amend-  
ment of  
section  
454 of  
Bom.  
LIX  
of 1949.

7. In the principal Act, section 454, except the proviso, shall be renumbered as sub-section (1) of that section, and

(a) after sub-section (1) as so re-numbered, the following sub-section shall be added, namely :—

"(2) The Corporation may make rules either prospectively or retrospectively for the purposes of levy of property tax under section 141B :

Provided that while making any rules under this sub-section, no provision for breach thereof under section 468, shall be made retrospectively : " ;

(b) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted."

## STATEMENT OF OBJECTS AND REASONS

Under the existing provisions of the Bombay Provincial Municipal Corporations Act, 1949, property taxes consist of water tax, conservancy tax and general tax. These taxes are levied on buildings and lands at such percentage of their rateable value as the Municipal Corporation decides. The rateable value is determined according to the annual letting value. The annual letting value is based on either the standard rent fixed under the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 or where such rent is not fixed then on the actual rent received or in the case where the building or land is not ordinarily let and the rent cannot be estimated, then the annual rent is deemed to be six per cent. of the total estimated market value. Such levy of property tax does not provide sufficient revenue to the Corporation to meet with escalating cost of services which the Corporation is called upon to provide in the City particularly in view of the rapid urbanisation in certain Cities. It is, therefore, considered necessary to provide alternative method for levy of tax on buildings and lands on the basis of carpet area.

This Bill seeks to amend the said Act so as to empower the Municipal Corporation to levy either property taxes on the basis of annual letting value or property tax on the basis of carpet area of the buildings and lands. It is proposed to empower the Corporation to levy property tax on the basis of carpet area at such rate per square metre of carpet area of the building and land as the Corporation may determine and to fix different rates of tax for residential and non-residential buildings.

The minimum and maximum rates of tax that could be determined in respect of residential buildings are Rs. 10/- and Rs. 40/- per square metre, respectively and the minimum and maximum rates of tax in respect of non-residential buildings are Rs. 20/- and Rs. 80/- per square metre, respectively.

Power is taken to the Corporation to increase or decrease the rates of tax determined for residential and non-residential buildings, according to factors like location, age, type and occupancy of residential buildings and according to location, age, purpose of use and occupancy of non residential buildings. In the case of residential huts and residential tenements in a chawl, such residential tenements having carpet area not exceeding twenty five square metres, the Corporation is empowered to levy in lieu of property tax an amount of tax not less than such amount as the State Government may determine.

Having regard to the rise in the prices, it is considered necessary to amend section 19 A of the said Act to do away with the limit of Rs. 3,000/- up to which sumptuary allowance is payable to the Mayor.

This Bill seeks to amend the said Act to carry out the aforesaid objects.

The following notes on clauses explain the important provisions of the Bill.

**Clause 2.**— This clause seeks to amend section 2 of the Act to provide definitions of "carpet area" and "chawl".

**Clause 3.**— This clause seeks to amend section 19 A of the Act so as to do away with the limit of sumptuary allowance.

**Clause 4.**— This clause seeks to substitute clause (a) of sub-section (1) of section 127 of the Act so as to provide option to the Corporation to levy either the property taxes on the basis of annual letting value of buildings and lands or property tax on the basis of carpet area of buildings and lands.

**Clause 5.**— This clause seeks to insert new sections 141B, 141C, 141D, 141E and 141F in the Act which contain other necessary provisions relating to levy of property tax.

**Clause 6.**— This clause seeks to insert new Appendix I-A containing modifications to sections 138, 139, 140, 141 and 141 A in their application to the levy of property tax.

**Clause 7.**— This clause seeks to amend section 454 so as to empower the Corporation to make rules either prospectively or retrospectively for the purposes of levy property tax under section 141 B.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves delegation of legislative powers in the following respects, namely :-

**Clause 2 .—** Clause (7A) which is sought to be inserted in section 2 by this clause empowers the Commissioner to declare by notification in the *Official Gazette*, certain buildings as *chawls*.

**Clause 5 .—**(a) Sub-section (1) of section 141 B which is sought to be inserted by this clause empowers the Corporation to determine the rate at which the property tax is to be levied on buildings and lands.

(b) Proviso to sub-section (2) of the said section 141B empowers the Corporation to determine lower rate in respect of residential buildings the carpet area of which does not exceed forty square metres.

(c) Sub-section (3) of the said section 141 B empowers the Corporation to make rules subject to which the increase or decrease in the rate of tax could be made according to certain factors of a residential and non residential buildings.

(d) Sub-section (5) of the said section 141B empowers the Corporation to determine an amount to be levied on residential huts and residential tenements not exceeding twenty-five square metres of carpet area.

(e) Proviso to sub-section (5) of the said section 141 B empowers the State Government to specify, by notification in the *Official Gazette*, the minimum amount to be levied on residential huts and residential tenements in a *chawl* not exceeding twenty-five square metres.

**Clause 7 .—** Sub-section (2) proposed to be inserted in section 454 by this clause empowers the Corporation to make rules prospectively or retrospectively for the purposes of levy of property tax under section 141B.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 25th February, 1999.

**KAUSHIK PATEL**

By order and in the name of the Governor of Gujarat.

**KUM. H. K. JHAVERI,**

Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 25th February, 1999.

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GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL J

MONDAY, MARCH 8, 1999/PHALGUNA 17, 1920

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the Gujarat Government Gazette. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

#### THE GUJARAT (SUPPLEMENTARY) APPROPRIATION BILL, 1999.

GUJARAT BILL NO. 4 OF 1999.

#### A BILL

*to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 1999.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 1999. Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of two thousand nine hundred forty-six crores, forty-six lakhs, eighty-seven thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 1999, in respect of the services and purposes specified in column 2 of the Schedule.

Issue of  
Rs. 29,46,46,87,000  
from and out of the  
Consolidated Fund  
of the State of  
Gujarat for the  
financial year  
1998-99.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

## SCHEDULE

( See sections 2 and 3 )

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
1	Agriculture and Cooperation Department	Revenue 1,37,000	—	1,37,000
2	Agriculture	Revenue 28,77,90,000	—	28,77,90,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue 29,35,000 Capital 27,90,000	— —	29,35,000 27,90,000
4	Animal husbandry and Dairy Development	Revenue 4,62,45,000 Capital 10,95,86,000	— —	4,62,45,000 10,95,86,000
5	Cooperation	Revenue 1,26,89,000 Capital 2,66,98,000	— —	1,26,89,000 2,66,98,000
8	Education	Revenue 720,99,84,000	5,48,00,000	726,47,84,000
9	Other expenditure pertaining to Education Department	Revenue 58,67,000 Capital 17,74,00,000	— —	58,67,000 17,74,00,000
10	Energy and Petro- Chemicals Department	Revenue 12,00,000	—	12,00,000
12	Energy Projects	Revenue 964,78,93,000	—	964,78,93,000
14	Finance Department	Revenue 45,06,000	—	45,06,000
15	Tax Collection Charges (Finance Department)	Revenue 1,13,95,000	—	1,13,95,000



No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
16	Treasury and Accounts Administration	Revenue	1,000	—	1,000
17	Pension and other Retirement Benefits	Revenue	414,68,00,000	—	414,68,00,000
18	Other expenditure pertaining to Finance Department	Capital	6,77,12,000	—	6,77,12,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue	—	39,35,97,000	39,35,97,000
		Capital	—	14,11,82,000	14,11,82,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue	45,78,000	—	45,78,000
21	Civil Supplies	Revenue	1,000	—	1,000
22	Food	Revenue	54,91,000	—	54,91,000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	2,00,000	—	2,00,000
24	Forest and Environment Department	Revenue	9,40,000	—	9,40,000
25	Forest	Revenue	2,38,00,000	92,28,000	3,30,28,000
		Capital	1,70,88,000	—	1,70,88,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
28	Governor Revenue	—	54,60,000	54,60,000
29	Council of Ministers Revenue	14,00,000	—	14,00,000
30	Elections Revenue	4,97,83,000	—	4,97,83,000
31	Public Service Commission Revenue	—	32,50,000	32,50,000
32	General Administration Department Revenue	6,46,87,000	—	6,46,87,000
34	Other expenditure pertaining to General Administration Department	Revenue 35,76,000 Capital 95,30,000	— —	35,76,000 95,30,000
35	State Legislature Revenue	20,13,000	—	20,13,000
38	Medical and Public Health Revenue	47,41,45,000	1,000	47,41,46,000
39	Family Welfare Revenue	7,17,00,000	—	7,17,00,000
41	Home Department Revenue	37,64,000	—	37,64,000
42	Police Revenue	36,70,37,000	10,98,000	36,81,35,000
44	Transport Revenue	6,46,76,000	—	6,46,76,000
46	Other expenditure pertaining to Home Department	Revenue 1,000 Capital 90,71,000	10,98,000 —	10,99,000 90,71,000



No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
47	Industries and Mines Department	Revenue	22,12,000	—	22,12,000
48	Stationery and Printing	Revenue	2,83,85,000	—	2,83,85,000
49	Industries	Revenue	1,19,08,000	—	1,19,08,000
		Capital	25,00,000	—	25,00,000
51	Other expenditure pertaining to Industries and Mines Department	Revenue	1,21,000	—	1,21,000
52	Information, Broadcasting and Tourism Department (Now information and Broadcasting Department)	Revenue	4,02,000	—	4,02,000
53	Information and Publicity	Revenue	79,25,000	—	79,25,000
54	Tourism	Revenue	22,31,000	—	22,31,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue	52,43,000	—	52,43,000
56	Labour and Employment Department	Revenue	8,00,000	—	8,00,000
57	Labour and Employment	Revenue	6,96,62,000	—	6,96,62,000
58	Other expenditure pertaining to Labour and Employment Department	Capital	10,00,000	—	10,00,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
59	Legal Department	Revenue	29,17,000	—	29,17,000
60	Administration of Justice	Revenue	—	1,33,49,000	1,33,49,000
61	Other expenditure pertaining to Legal Department	Capital	15,00,000	—	15,00,000
62	Legislative and Parliamentary Affairs Department	Revenue	1,000	—	1,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	75,000	—	75,000
64	Narmada, Water Resources and Water Supply Department	Revenue	94,70,000	—	94,70,000
65	Narmada Development Scheme	Capital	75,00,02,000	—	75,00,02,000
66	Irrigation and Soil Conservation	Revenue	28,10,78,000	19,81,000	28,30,59,000
		Capital	123,31,48,000	2,33,12,000	125,64,60,000
67	Water Supply	Capital	1,000	—	1,000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue	—	4,74,30,000	4,74,30,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	48,65,000	—	48,65,000



No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
70	Community Development	Revenue	98,40,20,000	—	98,40,20,000
71	Rural Housing and Rural Development	Revenue	2,41,81,000	27,88,000	2,69,69,000
72	Compensations and Assignments	Revenue	77,76,000	—	77,76,000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	16,37,41,000	—	16,37,41,000
		Capital	1,34,54,000	—	1,34,54,000
74	Fisheries	Revenue	68,04,000	—	68,04,000
75	Other expenditure pertaining to Ports and Fisheries Department	Revenue	7,51,000	—	7,51,000
76	Revenue Department	Revenue	34,20,000	—	34,20,000
77	Tax Collection Charges (Revenue Department)	Revenue	3,71,39,000	—	3,71,39,000
78	District Administration	Revenue	4,17,89,000	—	4,17,89,000
79	Relief on Account of Natural Calamities	Revenue	2,000	—	2,000
80	Dang District	Revenue	15,84,000	—	15,84,000
81	Compensation and Assignments	Revenue	4,94,11,000	—	4,94,11,000
83	Roads and Buildings Department.	Revenue	20,45,000	—	20,45,000
84	Non-Residential Buildings	Revenue	1,60,68,000	4,00,000	1,64,68,000
		Capital	2,000	—	2,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
85.	Residential Buildings	Revenue	1,43,98,000	—	1,43,98,000
86	Roads and Bridges	Revenue	70,13,03,000	17,50,000	70,30,53,000
		Capital	25,10,77,000	68,35,000	25,79,12,000
87	Gujarat Capital Construction Scheme	Capital	1,000	—	1,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue	—	1,51,61,000	1,51,61,000
90	Social Security and Welfare	Revenue	28,73,77,000	3,15,000	28,76,92,000
91	Welfare of Scheduled Tribes	Revenue	2,15,94,000	—	2,15,94,000
93	Special Component Plan for Scheduled Castes.	Revenue	1,18,72,000	—	1,18,72,000
94	Tribal Area Sub Plan	Revenue	5,81,92,000	6,86,000	5,88,78,000
		Capital	3,000	5,48,000	5,51,000
96	Urban Housing	Revenue	—	1,79,11,000	1,79,11,000
		Capital	34,55,00,000	—	34,55,00,000
97	Urban Development	Revenue	11,94,48,000	—	11,94,48,000
98	Compensations, Assignments and Tax Collection Charges	Revenue	20,90,00,000	—	20,90,00,000
Total :		Revenue	2570,41,69,000	57,03,03,000	2627,44,72,000
		Capital	301,83,38,000	17,18,77,000	319,02,15,000
Grand Total :			2872,25,07,000	74,21,80,000	2946,46,87,000



## STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of article 204 of the Constitution of India read with article 205 thereof, to provide for the appropriation out of the Consolidated Fund of the State of Gujarat of the moneys required to meet the supplementary expenditure on certain services and purposes in relation to the financial year ending on the thirty-first day of March, 1999.

The amounts are shown below :—

	Rs.
(a) Revenue Expenditure	2627,44,72,000
(b) Capital Expenditure	319,02,15,000
Total	<u>2946,46,87,000</u>

Dated the 8th March, 1999.

VAJUBHAI VALA

By Order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 8th March, 1999.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XLI]

THURSDAY, FEBRUARY 24, 2000/PHALGUNA 5, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 24th February, 2000 by Dr. Mayaben Kodanani M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly rules for general information.

GUJARAT BILL NO. 5 OF 2000.

### THE GUJARAT PROHIBITION OF RAGGING BILL, 2000

#### A BILL

*A bill to prohibit ragging in educational institutions in the State of Gujarat and for matters connected therewith.*

WHEREAS, it is expedient to enact a special law to prohibit ragging in educational institutions in the State of Gujarat;

It is hereby enacted in the Fifty-first Year of Republic of India as follows :—

Short title  
extent and  
Commence-  
ment.

1. (1) This Act may be called the Gujarat Prohibition of Ragging Act, 2000.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may by notification in the *Official Gazette*, appoint.

2. In this Act, unless the context otherwise requires,—

**Definitions.**

(a) "educational institution" means and includes a College, or other institution by whatever name called, carrying on the activity or imparting education therein (either exclusively or among other activities); and includes an orphanage or a boarding home or hosted or a tutorial institution or any other premises attached thereto;



(b) "head of the educational institution" means the Vice-Chancellor of the University, Dean of the Medical faculty, Director of the Institution, or the Principal, Headmaster or the person responsible for the management of the institution;

(c) "ragging" means display of disorderly conduct, doing any act which causes or is likely to cause physical or psychological harm or raise apprehension or fear or shame or embarrassment to a student in any educational institution and includes.—

(i) teasing, abusing, threatening or playing practical jokes on, or causing hurt to, such student; or

(ii) asking a student to do any act or perform something which such student will not, in the ordinary course, willingly do.

**Prohibition of ragging.**

3. Ragging within or outside any educational institution is an offence punishable under this Act.

**Penalty for ragging.**

4. Any person who directly or indirectly commits, participates in, abets or propagates ragging within or outside any educational institution shall, on conviction, be punished with imprisonment for a term which may extend to two years and shall also be liable to a fine which may extend to ten thousand rupees.

**Dismissal of student.**

5. Person who is convicted under Section 4, is a student, he shall be dismissed from the educational institution and such student shall not be admitted in any other educational institution for a period of five years from the date of order of such dismissal.

6. (1) Whenever any student or, as the case may be, the parent or guardian, or a teacher of an educational institution complains, in writing of ragging to the head of the educational institution, the head of the educational institution shall without prejudice to the foregoing provisions, within seven days of the receipt of the complaint inquire into the matter mentioned in the complaint and if, prima facie, it is found true, suspend the student who is accused of the offence, and shall, immediately forward the complaint to the police-Station having jurisdiction over the area in which the educational institution is situated, for further action.

(2) Where, on enquiry by the head of the educational institution, it is proved that there is no substance, prima-facie, in the complaint received under sub-section (1), he shall intimate the fact, in writing, to the complainant.

(3) The decision of the head of the educational institution that the student has indulged in ragging under sub-section (1), shall be final.

**Deemed abetment.**

7. If the head of the educational institution fails or neglects to take action in the matter specified in section 6 when a complaint of ragging is made, such person shall be deemed to have abetted the offence of ragging and shall, on conviction, be punished as per the provisions of section 4.

**Power to make rules.**

8. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) Rules made under this Section shall be laid before the State Legislature for a period of thirty days as soon as possible after they are made and shall be subject to such modifications or rescission as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any modification or rescission so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Ahmedabad.  
Dated the 4th January, 2000.

DR. MAYABEN KODNANI,  
M. L. A.

**STATEMENT OF OBJECTS AND REASONS.**

In recent year there has been a significant increase in the complaints of ragging in educational institutions. Ragging is a stigma on the educational institutions and it should be nipped in bud. Ragging causes physical or psychological harm or raise fear or shame to a student in any educational institution. It is, therefore expedient in the educational institutions interest to device Legislative measure.

Hense this Bill.

Ahmedabad.

Dated the 4th January, 2000.

DR. MAYABEN KODNANI,  
M. L. A.



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub clause (3) of clause (1) empowers the State Government to specify the date on which the Act shall come into force.

Sub clause (1) of clause (8) empowers the State Government to make rules to carry out the purposes of the Act.

The delegation of Legislative powers as aforesaid is essential and of normal character.

Ahmedabad.  
Dated the 4th January, 2000.

DR. MAYABEN KODNANI,  
M. L. A.

Gandhinagar,  
Dated the 24th February, 2000.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.

V-Ex-5-2



# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ] THURSDAY, MARCH 11, 1999/PHALGUNA 20, 1920

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 11th March, 1999 by Shri UDESINH. BARIA, M.L.A. is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information :—

GUJARAT BILL NO. 6 OF 1999.

#### THE GUJARAT EMPLOYEES OF PRIVATE COACHING CLASSES (CONDITIONS OF SERVICE) REGULATION BILL, 1998

##### A BILL

*to regulate recruitment and conditions of Service of employees of private coaching classes.*

It is hereby enacted in the Forty-ninth year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Employees of Private Coaching Classes (Conditions of Service) Regulation Act, 1998. Short title, extent and commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may by notification in the *Official Gazette* appoint.

2. In this Act, unless the context otherwise requires,—

Definitions

(1) "appointed date" means the date on which this Act comes into force.

(2) "Director" means the Director of Education of the Government of Gujarat.

(3) "employee" means any member of the teaching and non-teaching staff of a private coaching class.

(4) "Management" means the person or body of persons administering a private coaching class.

(5) "private coaching class" means any institution, other than a recognised school administered by any person or body of persons, by whatever name called other than the Government or a local authority, with the object of preparing its students for any certificate or diploma or degree or any college or school courses.

Terms and conditions of service of employees of Private Coaching Classes.

3. (1) Subject to the provisions of this section, the State Government may make rules providing for the minimum qualifications for recruitment (including its procedure) duties, pay, allowances, post retirement and other benefits and other conditions of service of employees of private coaching classes and for reservation of adequate number of posts for members of the backward classes :

Provided that, neither the pay nor the rights in respect of leave of absence, age of retirement and post retirement benefits and other monetary benefits of an employee of an existing private coaching class on the appointed date shall be varied to the disadvantage of such employee by any such rules.

(2) Every employee of a private coaching class shall be governed by such code of conduct as may be prescribed. On the violation of any provision of such code of conduct, the employee shall be liable to disciplinary action after conducting an enquiry in such manner as may be prescribed.

(3) If the scales of pay and allowances, post retirement and other benefits of the employees of any private coaching class are less favourable than these provided by rules made under sub-section (1), the Director shall direct in writing the Management of such class to bring the same up to the level provided by the said rules within such period or extended period as may be specified by him.

(4) No employee of a private coaching class shall be suspended or dismissed or removed or reduced in rank nor shall his services be otherwise terminated by the Management except in accordance with the provisions of this Act and the rules made in that behalf.

Certain obligations of Management of Private Coaching Class.

4. (1) The Management shall, as soon as possible, fill in, every permanent vacancy in a private coaching class by appointing a person duly qualified to fill such vacancy in the manner as may be prescribed.

(2) Every person appointed to fill a permanent vacancy shall be on probation for a period of two years. Subject to the provisions of sub-section (3) and (4), he shall on completion of his probation period of two years, be deemed to have been confirmed.



(3) If in the opinion of the Management, the work or behaviour of any probationer, during the period of his probation, is not satisfactory, the Management may terminate his services at any time during the said period after giving him one month's notice.

(4) If the services of any probationer is terminated under sub-section (3) and he is re-appointed by the Management in the same class or any other class belonging to it within a period of one year from the date on which his services were terminated, then the period of probation undergone by him previously shall be taken into consideration in calculating the required period of probation for the purposes of sub-section (2).

(5) The Management may fill in every temporary vacancy by appointing a person duly qualified to fill such vacancy. The order of the appointment shall be drawn up in the form as may be prescribed in that behalf and shall state the period of appointment of such person.

5. If any employee intends to resign his post in any private coaching class, at any time after the appointed date, he shall draw up a letter of resignation in duplicate and sign both the copies of that letter and put the date thereon. He may then forward one copy to the Management by registered post and keep the other copy with him.

Procedure for  
resignation by  
employees of  
private coaching  
class.

6. (1) The State Government shall by notification in the *Official Gazette*, constitute one or more Tribunals for the purposes of this Act and define the jurisdiction of each Tribunal in such notification.

(2) A Tribunal shall consist of one person only to be appointed by the State Government.

(3) A person shall not be qualified for appointment as a Tribunal, unless,--

(a) he is holding or has held a judicial office not lower in rank than that of Civil Judge (Senior Division), or

(b) he has practised as an Advocate or Attorney for not less than seven years;  
or

(c) he is holding or has held an office not lower in rank than, that of Under Secretary to Government, Assistant Commissioner of Labour or Deputy Director of Education in the State.

(4) The appointment of a person as a Tribunal, may be on a full time or part time basis, and may be for such period or periods, but not exceeding five years in the aggregate, as the State Government may, from time to time; in each case decide.

(5) The remuneration and other conditions of service of a person constituting the Tribunal shall be determined by the State Government.

(6) The State Government shall make available to the Tribunal such ministerial staff as may be necessary for the discharge of its functions under this Act.

(7) All expenditure on account of the Tribunal shall be met from the Consolidated Fund of the State.

Right of Appeal  
to Tribunal.

7. (1) Notwithstanding anything contained in any law or contract for the time being in force, any employee in a private coaching class who is dismissed or removed or whose services are otherwise terminated or who is reduced in rank, by the Management, and who is aggrieved, shall have a right of appeal and may appeal against any such order to the Tribunal :

Provided that, no such appeal, shall lie to the Tribunal in any case where the matter has already been decided by a Court of competent jurisdiction or is pending before such Court, on the appointed date.

(2) Such appeal shall be made by the employee to the Tribunal, within, thirty days from the date of receipt by him, of the order of a dismissal, removal, otherwise termination of service or, reduction in rank, as the case may be :

Provided that, where such order was made before appointed date such appeal may be made within sixty days from the said date.

(3) Notwithstanding anything contained in sub-section (2), the Tribunal may entertain an appeal made to it after the expiry of the said period of thirty or sixty days, as the case may be, if it is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.

General powers  
and procedure  
of Tribunal.

8. (1) For the purposes of admission, hearing and disposal of appeals, the Tribunal shall have the same powers as are vested in an Appellate Court under the Code of Civil Procedure, 1908 and shall also have the powers to stay the operation of any order against which an appeal is made, on such conditions as it may think fit to impose and such other powers as are conferred on it by or under this Act.

(2) The Tribunal shall decide the procedure to be followed by the Tribunal for the disposal of its business including the place or places at which and the hours during which it shall hold its sittings.

(3) Every appeal shall be decided as expeditiously as possible. In every case, endeavour shall be made by the Tribunal to decide an appeal within three months from the date on which it is received by the Tribunal: If the Tribunal is unable to dispose of any appeal within this period, it shall put on its record the reasons thereof.

Powers of  
Tribunal to give  
appropriate  
reliefs and  
directions.

9. (1) On receipt of an appeal, where the Tribunal, after giving reasonable opportunity to both the parties of being heard, is satisfied that the appeal does not pertain to any of the matters specified in section 7 or is not maintainable by it, or there is no sufficient ground for interfering with the order of the Management it may dismiss the appeal.

(2) Where the Tribunal, after giving reasonable opportunity to both the parties of being heard, decides in any appeal that the order of dismissal, removal, otherwise termination of service or reduction in rank was in contravention of any law (including

any rules made under this Act) contract or conditions of service for the time being in force or was otherwise illegal or improper, the Tribunal may set aside the order of the Management, partially or wholly, and direct the Management, either,—

(a) to reinstate the employee on the same post or on lower post as it may specify; or

(b) to restore the employee to the rank which he held before reduction or to any lower rank as it may specify; or

(c) to give arrears of emoluments to the employee for such period as it may specify; or

(d) to award such lesser punishment as it may specify in lieu of dismissal, removal, otherwise termination of service or reduction in rank, as the case may be; or

(e) Where it is decided not to reinstate the employee or in any other appropriate case, to give such sum to the employee, not exceeding his emoluments for six months, by way of compensation, regard being had to loss of employment and possibility of getting or not getting suitable employment thereafter, as it may specify; or

(f) to give such other relief to the employee and to observe such other conditions as it may specify, having regard to the circumstances of the case.

(3) Any direction issued by the Tribunal under sub-section (2) shall be communicated to both the parties in writing and shall be complied by the Management within the period specified in the direction, which shall not be less than thirty days from the date of its receipt by the Management.

Decision of  
Tribunal to be  
final and binding.

10. Notwithstanding anything contained in any law or contract for the time being in force the decision of the Tribunal on an appeal entertained and disposed of by it shall be final and binding on the employee and the Management and no suit, appeal or other legal proceeding shall lie in any Court, or before any other Tribunal or authority, in respect of the matters decided by the Tribunal.

Penalty to  
Management  
for failure to  
comply with  
Tribunal's  
directions.

11. If the Management fails, without any reasonable excuse, to comply with any direction issued by the Tribunal under section 9 within the period specified in the direction, or within such further period as may be allowed by the Tribunal, the Management shall, on conviction, be punished,—

(a) for the first offence, with fine which may extend to one thousand rupees;

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, the fine shall not be less than one hundred rupees, and



- (b) for the second and subsequent offences, with fine which may extend to two thousand rupees :

Provided that, in the absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, the fine shall not be less than five hundred rupees.

Legal practitioners excluded from appearance.

12. Notwithstanding anything contained in any law for the time being in force, a legal practitioner shall not be entitled to appear on behalf of any party in any proceedings before the Tribunal, except with the special permission of the Tribunal.

Power to make rules.

13. (1) The State Government may, by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the minimum qualifications for recruitment of employees of private coaching class;

(b) their scales of pay and allowances;

(c) their post retirement and other benefits;

(d) the other conditions of service of such employees including leave, superannuation, re-employment and promotion;

(e) the duties of such employee and Code of Conduct and disciplinary matters;

(f) the manner of conducting inquiries;

(g) any other matter which is required to be or may be prescribed.

(3) All rules made under this Act shall be subject to conditions of previous publication.

(4) Every rule made under this Act shall be laid, as soon as may be, after it is made before the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

**STATEMENT OF OBJECTS AND REASONS**

It is necessary to regulate the recruitment and conditions of service of employees in private coaching classes in the State, with a view to providing such employees security and stability of service to enable them to discharge their duties effectively and efficiently towards the pupils and their guardians in particular, and the institution and the society in general.

Hence this Bill is proposed to be introduced.

Dated 20th July, 1998.  
Gandhinagar.

UDESINH BARIA  
M.L.A.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-Clause (3) of clause 1 empowers the State Government to appoint the date on which the Act shall come into force.

*Clause 3.*—Sub-clause (1) empowers the State Government to make rules providing for the minimum qualifications for recruitment, duties, pay, allowances etc. of employees of private coaching classes.

Sub-clause (2) empowers the State Government,—

(i) to prescribe the Code of Conduct by which the employees of a private school shall be governed.

(ii) to prescribe the manner of conducting an inquiry against an employee.

Sub-clause (3) empowers the Director to specify the period of extended period for bringing the pay, allowances, and other benefits of the employees upto the level provided by rules.

Sub-clause (4) empowers the State Government to make rules for suspension, dismissal, removal, termination or reduction in rank of an employee by the Management.

*Clause 4.*—Sub-clause (1) empowers the State Government to prescribe the manner in which the permanent vacancy shall be filled.

Sub-clause (5) empowers the State Government to prescribe the form of the order of appointment.

*Clause 13.* empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers as aforesaid is essential and is of normal character.

Dated 20th July, 1998,  
Gandhinagar.

UDESINH BARIA  
M.L.A.

## FINANCIAL MEMORANDUM

Sub-clause (7) of clause 6 provides that all expenditure on account of the Tribunal shall be met from the Consolidated Fund of the State. A recurring expenditure of about rupees 5 lacs is estimated to be involved from the Consolidated Fund of the State.

Dated 20th July, 1998.  
Gandhinagar.

UDESINH BARIA  
M.L.A.

Dated the 11th March, 1999,  
Gandhinagar.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.





सत्यमेव जयते

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PUBLISHED BY AUTHORITY

VOL. XL] THURSDAY, MARCH 11, 1999/PHALGUNA 20, 1920

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## PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 11th March, 1999 by  
Shri UDESINH BARIA, M.L.A. is published under rule 127-A of the  
Gujarat Legislative Assembly Rules for general information :—

GUJARAT BILL NO. 7 OF 1999.

### THE GUJARAT AGRICULTURE LABOUR WAGE SUBSIDY BILL, 1998.

#### A BILL

*to provide for the payment of wage subsidy to the Agricultural labourers  
who do not get the minimum wage in the State of Gujarat and  
for matters connected therewith.*

It is hereby enacted in the Fortyninth year of the Republic of India as  
follows :—

1. (1) This Act may be called the Gujarat Agricultural Labour Wage Subsidy  
Act, 1998.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

## Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "Board" means the Wage Subsidy Board, constituted under Section 3.

(2) "minimum wage" means the minimum wage prescribed by the State Government for the agricultural labourers under the Minimum Wages Act, 1948.

## Constitution of the Wage Subsidy Board.

3. (1) There shall be constituted a Wage Subsidy Board in each district of the State of Gujarat.

(2) The Board shall consist of a Chairman and such other members as may be appointed by the State Government.

(3) The majority of the Members shall consist of the M.L.A.s. and non-officials.

(4) The Chairman shall be a representative of agricultural labourers or the registered trade union of the agricultural labourers.

(5) The terms and conditions of office of the Chairman and members of the Board shall be such as may be prescribed.

## Appointment of officers and servants of the Board.

4. The officers and servants of the Board shall be appointed by the State Government and the conditions of service thereof shall be such as may be prescribed.

## No Disqualification in certain cases.

5. No person shall be disqualified for being chosen as or for being a member of the Legislative Assembly of the State by reason only of the fact that he is a Chairman or member of the Board.

## Functions of the Board.

6. The functions of the Board shall be —

(a) to subsidise the balance of minimum wage to the agricultural labourers where it is not paid at the full rate by the employer;

(b) to recommend to the State Government for recovery of the subsidised amount from the employer who has deliberately and mischievously not paid the minimum wage despite his capacity to do so;

(c) to recommend to the State Government the payment of wage subsidy from the Government treasury in bona fide cases of inability of the employer.

(d) such other functions as may be prescribed.

## Payment of subsidy.

7. The Board shall pay the amount of subsidy to the agricultural labourers every week through Talati.

## Fund.

8. The State Government shall put at the disposal of the Board such amount every year as may be required by the Board for payment of subsidy to the agricultural labourers and for the office expenses.

## Power to make rules.

9. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the Legislature or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect

Dated 10th October, 1998.  
Gandhinagar.

UDESINH BARIA,  
M.L.A.



**STATEMENT OF OBJECTS AND REASONS**

Most of the agricultural labourers in the State and about 90% in South Gujarat, are not paid the minimum wage. The rich peasants and the kulkas who produce crops worth lacs of rupees and who take advantage of the subsidised inputs like fertilisers, insecticides, powers, irrigations, seeds, tractors, etc. resist to pay the minimum wage. In such cases, the balance should be paid in the first instance by the State Government and should be recovered thereafter from the employer. But in genuine cases if it is not possible for the employer to pay the minimum wage then it is the boundened duty of the State Government to provide subsidy. It is a known fact about Rs. 2,000 crores are given by way of subsidy in fertilisers to the rich peasants in the country. So equally the agricultural labourers who toil on the soils and produce grain for the people cannot be allowed to starve, and here is the role of the State of feed them who feed the country.

Dated the 10th October, 1998,  
Gandhinagar.

UDESINH BARIA,  
M.L.A.

**FINANCIAL MEMORANDUM**

For establishment of Wage Subsidy Board and appointment of officers thereof and for payment of subsidy substantial amount will be required. It is estimated that the Bill would involve annual expenditure of Rs. 10 crores from the Consolidated Fund of the State.

Dated the 10th October, 1998,  
Gandhinagar.

**UDESINH BARIA,**  
**M.L.A.**

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

Sub-clause (2) of clause 3 empowers the State Government to appoint the requisite number of members of the Board in each district. Sub-clause (5) empowers the State Government to prescribe terms and conditions of office of the Chairman and members of the Board.

Clause 4 empowers the State Government to appoint the officers and servants and to prescribe conditions of their services.

Clause 6 (d) empowers the State Government to prescribe other functions of the Board.

Clause 9 (1) empowers the State Government to make rules for carrying out the purposes of the Act.

The delegation of legislative powers is necessary and of normal character.

Dated the 10th October, 1998,  
Gandhinagar.

UDESINH BARIA,  
M.L.A.

Dated the 11th March, 1999,  
Gandhinagar.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.





सत्यमेव जयते

# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XLI]

THURSDAY, MARCH 9, 2000/ PHALGUNA 19, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART- V

### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 9th March, 2000 by Shri Usmangani Dewadiwala is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

### GUJARAT BILL NO.8 OF 2000

### THE GUJARAT PUBLIC ENTERPRISES SERVICE COMMISSION BILL, 2000.

#### A BILL

*to provide for the constitution of a commission for the selection of staff for appointment to posts in public enterprises and for matters connected therewith and incidental thereto.*

It is hereby enacted in the Fifty First Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Public Enterprises Service Commission Act, 2000.

Short title  
and  
Commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette* appoint.

2. In this Act, unless the context otherwise requires:—

Defini-  
tions.

(a) "Chairman" means the Chairman of the Commission.

(b) "Commission" means the Gujarat Public Enterprises Service Commission constituted under sub-section (1) of section -3;

(c) "Government" means the Government of Gujarat;

(d) "Notification" means notification published in the *Official Gazette* and the word "notified" shall be construed accordingly;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "Public enterprise" means a public enterprise of the State of Gujarat whether created by law or registered under any law for the time being in force.

Constitu-  
tion of  
the  
Gujarat  
Public  
Enter-  
prises  
Service  
Commis-  
sion.

3. (1) The State Government may, by notification, constitute a Commission by the name of the Gujarat Public Enterprises Service Commission.

(2) The Commission shall be a body corporate having perpetual succession and a common seal, shall sue and shall be sued by the said corporate name.

(3) The Headquarters of the Commission shall be located at such place as may be prescribed by the Government.

Constitu-  
tion of  
the Com-  
mission.

4. (1) The Commission shall consist of not less than three and not more than nine members of whom one shall be the Chairman, to be appointed by the State Government.

(2) The Chairman and Members shall be persons who, in the opinion of the Government are man of ability, integrity and under standing and have special knowledge of or practical experience in the public administration or personnel management or industrial management.

Terms and  
condi-  
tions of  
service  
of Chair-  
man and  
members.

5. (1) The Chairman or any other member of the Commission shall hold office for a term of three years from the date on which he enters upon his office:

Provided that a person who has held office as Chairman or other member shall, on the expiration of his term of office, be eligible for appointment for another term of three years only:

Provided further that no person who has attained the age of sixty two years shall be eligible to hold office in any capacity, whether as Chairman or other member.

(2) If the office of the Chairman or any other member becomes vacant by resignation or otherwise or if the Chairman is by reason of absence or for any other reason unable to perform the duties of his office, those duties shall until some person is appointed to the vacant office, or, as the case may be, until the Chairman has assumed his duties, be performed by such one of the other members as the Government may appoint for the purpose.

(3) The Chairman or any other member may resign his office, by writing under his hand, addressed to the Government but he shall continue in office, until his resignation is accepted by the Government.

(4) The salary of the Chairman and other members shall be such as may be prescribed by the Government and the other terms and conditions of service shall be such as may be prescribed.

Removal  
of Chair-  
man or  
members.

6. The Government may, after making an inquiry in such manner as may be prescribed, remove the Chairman or any other member from his office on any one of the following grounds :-

(a) misconduct involving moral turpitude;

(b) insolvency;

(c) infirmity of mind or body or

(d) engages during his term of office in any paid employment outside the duties of his office.

Staff of  
the Com-  
mission.

7. (1) The Staff of the Commission shall consist of :-

(a) Secretary, who shall be appointed by the Government; and

(b) Such other employees as the Commission may, with the previous approval of the Government, appoint from time to time.

(2) The salary of the Secretary and other employees of the Commission shall be such as may be prescribed.

(3) The other terms and conditions of service of the Secretary and employees of the Commission shall be such as may be prescribed.

8. (1) Notwithstanding anything contained in any other law for the time being in force or in any contract, custom or usage to the contrary, it shall be the duty of the Commission to select persons for appointment to the posts in the public enterprises.

Functions of the Commission.

(2) It shall be the duty of the Commission to advise the public enterprises on such matters as may be referred to it.

9. It shall be the duty of every public enterprise to communicate to the Commission the vacancies existing at the commencement of this Act and estimated total number of vacancies in the public enterprises and such communication shall be sent in respect of all such existing and estimated total number of various vacancies and which are likely to occur during the unexpired portion of the year, within one month after such commencement and in respect of all vacancies such as are likely to occur during each subsequent year within one month after the commencement of such year.

Duty of Public Enterprises to the Commission to Communicate to Commission.

10. (1) The manner of selection of the persons for the appointment to the public enterprise shall be such as may be provided for by regulations.

Manner of Selection of persons and procedure for the conduct of the business of the Commission.

(2) The procedure for the conduct of business of the Commission shall be such as may be provided for by regulations.

11. It shall be the duty of the Commission to make recommendations to each of the public enterprises in such manner as may be specified by regulations for appointments to fill the vacancies, communicated to it by such public enterprises.

Duty of Commission to make recommendations.

12. (1) Appointments to all the vacancies required to be communicated to the Commission under section 9 shall, on or from such date as the Commission may notify in respect of each public enterprises be made by such public enterprise only on the recommendations of the Commission.

Communicated vacancies to be filed only on the recommendation of Commission.

(2) If in any year, the Commission is unable to make recommendations for appointment to all the vacancies communicated to it by a public enterprise under section 9, or if the public enterprise is unable in any year to make appointments on the basis of the recommendations made by the Commission, the vacancies may be carried forward to the subsequent year.

13. Notwithstanding anything contained in any other law for the time being in force, or in any contract, custom or usage to the contrary, appointments to the posts in public enterprises shall be made on the recommendations of the Commission.

Effect of recommendation of the Commission.



Power to call for record.

14. The Commission may, call for any record, report or any other information from any public enterprises, if in its opinion, such record, report or other information is necessary for the efficient discharge of its functions, and the public enterprise shall furnish such record, report or other information to the Commission.

Obligations as Secrecy.

15. The Chairman and members and the Secretary and other employees of the Commission shall maintain strictest secrecy regarding the affairs of the Commission and shall not divulge, directly or indirectly any information of a confidential nature to members of the public unless compelled to do so by any judicial or other authority or unless instructed to do so by superior officer in the discharge of his duties.

Chairman, members etc. to be public servants under Act XLV of 1860.

16. The Chairman, members, the Secretary and other employees of Commission appointed under this Act, shall while acting or purporting to act under this Act be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Proceedings not to be invalidated by reasons of vacancies etc. in the commission or its committees.

17. No act or proceeding of the Commission or any of its committees shall be deemed to be invalid by reasons or on the ground that the Chairman of the Commission or any member of the Commission or committee, as the case may be, was not entitled to hold or continue in such office, or by reason of such act or proceeding having been done or conducted during the period of any vacancy in office of the Chairman of the Commission or any of the members of the Commission or committee, as the case may be.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceedings shall lie against any person for anything, which is in good faith done or intended to be done under this Act.

Power of State Government to make Rules.

19. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made, and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid, or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Power of Commission to make Regulations.

20. (1) The Commission may, by notification in the *Official Gazette*, make regulations with the previous approval of the State Government for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the terms and conditions of services of the employees of the Commission under sub-section (3) of section 7.

(b) the manner of selection of persons for appointment to the posts in the public enterprise under sub-section (1) of section 10;

(c) the procedure for the conduct of business of the Commission under sub-section (2) of section 10 and 13.

(d) the income and expenditure, budget accounts and audit and annual report of the Commission.

Dated the 5th February 2000,  
Gandhinagar.

USMANGANI DEVADEWALA,  
M. L. A.

V-Ex-8-2

## STATEMENT OF OBJECTS AND REASONS

At present each public enterprise (i.e. Government Company Corporation etc.) selects its staff in its own ways. There are so many complaints regarding irregularities and malpractices in the Selection of Staff. Some times, method of Selection of Staff is also not scientific. With a view, therefore to avoiding complaints regarding irregularities and malpractices in the selection of the staff for the public enterprises it is considered necessary to establish a Gujarat Public Enterprises Service Commission. The following notes on clauses explain the important provisions of the Bill:—

*Clause 3.*—This clause provides for the constitution of the Gujarat Public Enterprises Service Commission, which shall be a body corporate having perpetual succession.

*Clause 4.*—This clause provides for the Constitution of the Commission with members not less than three and not more than nine.

*Clause 5.*—This clause provides for terms and conditions of the office of Chairman and Members.

*Clause 6.*—This clause provides for the removal of members on certain grounds.

*Clause 8.*—This clause provides for the functions of the Commission.

*Clause 9.*—This clause imposes the Duty on the Public Enterprise to Communicate the vacancies in the Public Enterprises to the Commission.

*Clause 12.*—This clause provides that the vacancies in a public enterprise shall be filled only on the recommendation of the Commission.

*Clause 16.*—This clause provides that the chairman, members and other staffs shall be public servants within the meaning of the Indian Penal Code.

*Clause 18.*—This Clause is indemnity clause.

*Clause 19.*—This clause provides for the powers of the State Government to make rules for carrying out the purposes of this Act.

Dated the 5th February, 2000.  
Gandhinagar.

USMANGANI DEWADIWALA,  
M.L.A.



FINANCIAL MEMORANDUM

Sub-Clause (4) of Clause 5 provides for the Salary and allowances and other conditions of service of the Chairman and other members of the Commission.

Sub-Clause (2) and (3) of Clause 7 provides for the Salary and other terms and conditions of services of the Secretary and other employees of the Commission.

These provisions is enacted and brought into operation would involve an estimated annual expenditure of about rupees twenty lakhs from the Consolidated Fund of the State out of which about rupees ten lakhs would be of a recurring nature and about rupees ten lakhs would be of a non-recurring nature.

Dated the 5th February, 2000.  
Gandhinagar.

USMANGANI DEWADIWALA,  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

*Clause 1.*—Sub clause (2) of this clause empowers the State Government to appoint the date from which the Act shall come into force.

*Clause 3.*—Sub-clause (3) of this clause empowers the State Government to prescribe the place at which the Headquarters of the Commission, shall be located.

*Clause 5.*—Sub-clause (4) of this clause empowers the State Government to prescribe the salary of the Chairman and other members of the Commission and the other terms and conditions of their service.

*Clause 6.*—This clause empowers the State Government to prescribe the manner in which the inquiry shall be made.

*Clause 7.*—(i) Sub-clause (2) of this clause empowers the State Government to prescribe the salary of the Secretary and other employees of the Commission.

(ii) Sub-clause (3) of this clause empowers the State Government to prescribe the other terms and conditions of the service of Secretary and other employees of the Commission.

*Clause 10.*—(i) Sub-clause (1) of this clause empowers the Commission to provide by regulation the manner of selection of the persons for the appointment.

(ii) Sub-clause (2) of this clause empowers the Commission to provide by regulation the procedure for the conduct of its business.

*Clause 11.*—This clause empowers the Commission to specify the manner by regulations for making its recommendations to the public enterprises.

*Clause 19.*—This Clause empowers the State Government to make Rules for carrying out the purposes of this Act.

*Clause 20.*—This Clause empowers the Commission to make regulations with the previous approval of the State Government.

Dated the 5th February, 2000.  
Gandhinagar.

USMANGANI DEWADIWALA,  
M.L.A.

Gandhinagar,  
Dated the 9th March, 2000.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.



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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XLI]

THURSDAY, MARCH 9, 2000/ PHALGUNA 19, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 9th March, 2000 by Dr. Mayaben Kodnani is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO.9 OF 2000.

### THE GUJARAT PROHIBITION OF SMOKING AND SPITTING BILL, 2000.

#### A BILL

*to provide for prohibiting use of tobacco and spitting in places of public work or use and in public service vehicles in the State of Gujarat and to make provision for other matters connected therewith.*

It is hereby enacted in the Fifty-first year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Prohibition of Smoking and Spitting Bill, 2000.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires:—

(a) "advertisement" means and includes any notice, circular, wall-paper, pamphlets, display on hoardings or any visible representation made by means of any light sound, smoke gas, writing instruments, stickers, symbol, colours, logo, trade mark/ symbol, display on articles like T-shirts, shoes, sports wear, sports, gears caps, carry bags, telephone-booths, etc., or any other means which has direct or indirect effect of promoting smoking and or tobacco chewing and the expression "advertise" shall be construed accordingly.

Short title.  
extent and  
commence-  
ment.

Definitions.



(b) "authorised officer" means a person authorised under section 4 of this Act.

(c) "Chewing" means chewing of tobacco, gul (tobacco), use of tobacco paste, supari with tobacco, pan masala, zarda, gutka and the like.

(d) Government means the State Government of Gujarat.

(e) "Official Gazette" means the Gujarat Government Gazette.

(f) "Place of public work or use" means a place declared as such under section 3 of this Act, and includes auditoria, cinema/conference/seminar halls, hospital buildings, health institutions, amusement centres, restaurants, eating houses, hotel lounges, other waiting lodges, public offices, court buildings, educational institutions, libraries, bus-stations, ferry boats, places of worship, beaches, sports stadiums and the like which are visited by the general public but does not include other open place;

(g) "Public service vehicle" means a vehicle as defined under the Motor vehicles Act 59 of 1988;

(h) "Smoking" means smoking of tobacco in any form, whether in the form of cigarette, cigar, beedies, or otherwise with the aid of pipe, wrapper or any other instruments;

(i) "Spitting" means voluntary ejection of saliva from the mouth after chewing or without chewing and ejection of mucus from the nose after inhaling or without inhaling;

Declara-  
tion of  
places of  
public  
work or  
use.

3. As soon as may be after the commencement of this Act and thereafter from time to time, the Government may, by notification in the Official Gazette, declare any place to be a place of public work or use in Gujarat for the purpose of this Act.

Power of  
Govern-  
ment to  
authorise  
officers to  
act under  
this Act.

4. (1) The Government may, by notification in the Official Gazette, authorise one or more persons who shall be competent to act under this Act.

(2) Every persons authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of  
1860.

Prohibition  
of smoking  
and spitti-  
ng in places  
of public  
work or  
use.

5. No person shall smoke or spit in any place of public work or use.

Prohibition  
of smoking  
and  
spitting in  
public  
service  
vehicle.

6. Without prejudice to the provisions of the Motor Vehicles Act, 1988 no person shall smoke or spit while travelling in or using a public service vehicle.

59 of  
1988.

7. Notwithstanding anything contained in any other law for the time being in force no person shall advertise or cause to advertise in any place and on any public service vehicle any material which may directly or indirectly promote smoking of chewing of tobacco products or products containing tobacco even if classified as by any other name.

Prohibition of advertisement of smoking and chewing.

8. No person shall sell cigarettes, beedies, chewing tobacco, gul (tobacco), tobacco paste, including tobacco based tooth paste, supari with tobacco, pan masala, zarda snuff, gutkas, or any other such smoking and/or chewing substance containing nicotine and/or tobacco to any person who is below the age Twenty one years.

Prohibition of sale of cigarettes, etc. to minors.

9. No person shall himself or by any person on his behalf, store, sell or distribute cigarettes, beedies, chewing tobacco, gul (tobacco), tobacco paste, supari with tobacco, pan masala, zarda, ghutka, snuff or any other such smoking substance or substances containing tobacco within an area of 100 metres around a place of worship or any college, school or other educational institutions.

Prohibition of storage, sale and distribution of cigarettes etc.

10. The owner or manager or incharge of every place of public work or use shall display and exhibit a board at a conspicuous place or places in and outside the premises visited or used by the general public prominently stating that the place is a "No Smoking and Spitting Zone" and that "Smoking/Spitting is an offence".

Display and exhibition of board.

11. (1) Sections 5, 6, 9 or 10 shall be punishable with fine which may extend to one thousand rupees and in case of second or subsequent offence, shall be punishable with a minimum fine of two thousand rupees, which may extend to five thousand rupees.

Any person who contravenes the provisions of Punishment.

(2) Any person who contravenes the provisions of sections 7 and 8 shall be punishable with fine which may extend to one thousand rupees and in case of second or subsequent offence, shall be punishable with imprisonment which may extend to three months, or with a minimum fine of five thousand rupees which may extend to ten thousand rupees, or with both.

12. Any authorised officer or any police officer, not below the rank of a sub-inspector, may eject any person who contravenes any of the provisions of this Act, from the place of public work or use, and any driver/conductor of a public service vehicle may,

Power to eject violators.

eject any person who contravenes any of the provisions of this Act in the public service vehicles, from the public service vehicle.

13. (1) No court other than the court of a Judicial Magistrate First Class shall take cognizance of and try an offence under this act.

Court competent to take cognizance and try offences.

(2) No court shall take cognizance of any offence except on a complaint in writing of an authorised officer or an authorised representative of a recognised non-Govt. organisation devoted to the cause of controlling tobacco use/spitting with respect to offences under sections 5, 6, and 9 on report in writing of a police officer not below the rank of sub-inspector, or an authorised representative of a recognised non-Government organisation devoted to the cause of controlling tobacco use/spitting with respect to the offence under section 7, 8, 9 and 10.

14. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 offences under sections 5, 6, 7, 8 and 9 of this Act shall be cognizable and bailable.

Certain offences to be cognizable and bailable.

Summary  
trial of  
offences.

15. All offences under this Act shall be tried summarily in the manner provided for the summary trial under the Code of Criminal Procedure, 1973.

2 of  
1974.

Power to  
delegate.

16. The Government may, by notification in the official gazette, direct that any power exercisable by it under this Act, may also be exercisable by such officer and subject to such conditions, if any, as may be specified therein.

Compo-  
sition of  
offences.

17. (1) The Government may, by notification in the Official Gazette, empower the authorised officer or a police officer not below the rank of a sub-inspector to compound any offence committed under this Act on payment of a sum not less than rupees one thousand which may extend upto rupees five thousand by way of composition for the offence which such person is suspected to have committed.

(2) On payment of such sum to such officer, the offender if in custody, shall be released and no further proceedings shall be taken against such offender.

**STATEMENT OF OBJECTS AND REASONS**

It is a very well known fact proved scientifically that a person who consumes tobacco in any of the forms mentioned above in the Bill is prone to suffer more from those deadly diseases like cancers of oral cavity, lungs and Gastro intestinal tract, than the persons not consuming the tobacco. So it is true that the consumption of the tobacco in any of the forms is certainly injurious and hazardous to the health.

Smoking is not only dangerous to the consumer but is equally rather more harmful to the person living with the addict or to the other persons working along with the addict.

Spitting of the saliva and excretion of the nasal mucus here and there is very dangerous and serious threat to the health of the public and the society, as it causes many bacterial and viral and other air-borne diseases.

The polythene materials used for packing these tobacco products for the consumers increase in the solid waste and choking of the drainage systems. Smoke increases the air pollution.

Half of the earnings and the income is wasted in purchasing these costly products of the tobacco by the addicts and the consumers. Thereby leaving nothing for the expenses of the family, leading to poverty.

It is therefore essential to prohibit smoking and spitting in public places in the State of Gujarat in the general interest of the public at large.

Hence the Bill,

Dated the 8th February, 2000  
Gandhinagar.

DR. MAYABEN KODNANI,  
M.L.A.

V-Ex 9-2



**MEMORANDUM REGARDING DELEGATED LEGISLATION**

1. Sub clause (3) of clause (1) empowers to the State Government to specify the date on which the Act shall come into force.
2. The delegation of Legislative powers as aforesaid is essential and of a normal character.

Issued the 8th February, 2000.  
Gandhinagar.

**DR. MAYABEN KODNANI,**  
M.L.A.

Gandhinagar,  
Dated the 9th March, 2000.

**K. M. PANCHAL,**  
Secretary,  
Gujarat Legislative Assembly.



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# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLJ WEDNESDAY MARCH 17, 1999/PHALGUNA 26, 1920.

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

Bills introduced in the Gujarat Legislative Assembly.

To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

### THE BOMBAY MOTOR VEHICLES TAX (GUJARAT AMENDMENT) BILL, 1999.

GUJARAT BILL NO. 10 OF 1999.

#### A BILL

*further to amend the Bombay Motor Vehicles Tax Act, 1958.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Motor Vehicles Tax (Gujarat Amendment) Act, 1999.

Short  
title and  
commence-  
ment.

(2) It shall come into force on the 1st April, 1999.

Bom. LXV  
of 1958.

2. In the Bombay Motor Vehicles Tax Act, 1958 (hereinafter referred to as "the principal Act"), in section 3,-

Amend-  
ment of  
section 3 of  
Bom.  
LXV of  
1958.

(1) in sub-section (1), for the words "Fourth and Fifth", the words "Fourth, Fifth, Sixth and Seventh" shall be substituted,

(2) in the proviso, after the words "Fourth Schedule", the words "or Sixth Schedule" shall be inserted.

Amendment of  
section 4 of  
Bom. LXV of  
1958.

3. In the principal Act, in section 4, in sub-section (1AB), for the words "Fourth Schedule or Fifth Schedule", the words "Fourth Schedule, Fifth Schedule, Sixth Schedule or Seventh Schedule" shall be substituted.

Amendment of  
section 9 of  
Bom. LXV of  
1958.

4. In the principal Act, in section 9, after sub-section (4), the following sub-section shall be inserted, namely :-

"(4A) Where a person is entitled to a refund of tax under sub-section (1), (2), (3) or (4) and,-

(a) the amount of such refund exceeds the amount of tax, penalty or interest or the aggregate of any of them which is due from such person in respect of any other period at the time of payment of the amount of refund to him, there shall be paid to him by the Taxation Authority either the whole amount of refund or at his option the balance of the amount of refund remaining after deduction therefrom the amount of such tax, penalty or interest or the aggregate of any of them,

(b) the amount of such refund is less than the amount of tax, penalty or interest or the aggregate of any of them which is due from such person in respect of any other period at the time of payment of the amount of refund to him, there shall be paid to him by the Taxation Authority the whole amount of refund or at his option the whole amount of refund shall be appropriated by the Taxation Authority towards payment of the amount of such tax, penalty or interest or the aggregate of any of them and the balance shall be recoverable from him."

Amendment of  
section 11 of  
Bom. LXV of  
1958.

5. In the principal Act, in section 11, in sub-section (2), in clause (c), for the words "Sixth Schedule", the words "Eighth Schedule" shall be substituted.

Amendment of  
section 25 of  
Bom. LXV of  
1958.

6. In the principal Act, in section 25, for the words "Seventh Schedule", the words "Ninth Schedule" shall be substituted.

Amendment of  
First Schedule to  
Bom. LXV of  
1958.

7. In the principal Act, in the First Schedule, in Part-I, for clause (IV), the following clause shall be substituted, namely:-

"IV. Motor vehicles (including tricycles) plying for hire and used for the carriage of passengers,

(a) Vehicles licensed to carry more than six passengers

Rs. 1100 plus Rs. 100 for every passenger in addition to six passengers which the vehicle is so licensed to carry :

Provided that where a tax on motor vehicles is levied by any local authority the maximum annual rates of tax under this clause for motor vehicles registered for use solely within the limits of such local authority shall,-

(i) in cases where such motor vehicles are wholly or partially exempted by such local authority from the tax levied by such local authority, be the rates specified in this clause;

(ii) in any other case, be two-thirds of the rates so specified.

(b) Vehicles registered in any other State before or on or after the 1st April, 1999 and brought for use in the State for a temporary period,

(i) Vehicles licensed to carry in  
all not more than three passengers 400

(ii) Vehicles licensed  
to carry in all  
four passengers. 900

(iii) Vehicles licensed  
to carry more than  
four passengers  
but not more than  
six passengers. The rate specified in (ii) above  
plus Rs. 100 for every  
passenger in addition to four  
passengers which the vehicle  
is licensed to carry."

Amend-  
ment of  
Sixth  
Schedule  
to Bom.  
LXV of  
1958.

8. In the principal Act, the existing SIXTH SCHEDULE shall be renum-  
bered as EIGHTH SCHEDULE.

Amend-  
ment of  
Sixth  
Schedule to  
Bom.  
LXV of  
1958.

Amend-  
ment of  
Seventh  
Schedule  
to Bom.  
LXV of  
1958.

9. In the principal Act, the existing SEVENTH SCHEDULE shall be renum-  
bered as NINTH SCHEDULE.

Amend-  
ment of  
Seventh  
Schedule to  
Bom. LXV of  
1958.

Insertion  
of new  
Schedules  
in Bom.  
LXV of  
1958.

10. In the principal Act, after the Fifth Schedule, the following Schedules  
shall be inserted, namely :—

Insertion of new  
Schedules in  
Bom.  
LXV of 1958.



**"SIXTH SCHEDULE**

(See section 3)

Motor vehicles registered in the State of Gujarat on or after the 1st April, 1999 and plying for hire and used for the carriage of passengers.

Part I. <i>Motor Vehicles using motor spirit, compressed natural gas or operated by electric battery or solar energy.</i>	<i>Maximum rate of lump sum tax</i> Rs.
A. (a) Two wheelers vehicles licensed to carry not more than two passengers.	4000
(b) Three wheelers vehicles ordinarily known as autorickshaw,—	
(i) licensed to carry not more than three passengers	4000
(ii) licensed to carry four passengers	12000
(iii) licensed to carry five passengers	14000
(iv) licensed to carry six passengers	15000
(c) Four wheelers vehicles licensed to carry not more than six passengers	Eight per cent. of the cost of vehicle.
B. Motor vehicles falling under clause A and manufactured out of India and imported into India after the 31 st March 1999.	Twice the rates specified in clause A.
Part II. <i>Motor vehicles using fuel other than motor spirit, compressed natural gas or operated by electric battery or solar energy.</i>	The rates specified in part I plus a surcharge of fifty per cent.

**Explanation I.**—For the purposes of calculating the rate of lump sum tax under this Schedule if the invoice of the vehicle, or as the case may be, the Bill of Entry is not produced for any reason, then, the cost of vehicle shall be calculated as follows, namely:—

(1) (i) In case of model of such vehicle is being manufactured, the cost of vehicle certified by a local dealer or manufacturer of such vehicle;

(ii) In case the manufacture of such model is ceased, the prevailing market price of such vehicle certified by the licensed assessor or valuer of motor vehicles.

(2) If the cost of vehicle could not be calculated as per clause (1), the prevailing cost of similar vehicle determined by the Taxation Authority, closest in engine capacity and unladen weight of the vehicle in respect of which a tax is to be levied and collected.

**Explanation II.**—In calculating the cost of vehicle, if the cost of the vehicle is not in multiple of hundred, the fraction of a hundred not exceeding fifty rupees shall be ignored and the fraction of hundred exceeding fifty rupees shall be taken as hundred rupees.

## SEVENTH SCHEDULE

(See section 3)

Motor vehicles specified in the Sixth Schedule registered in the State of Gujarat before the 1st April, 1999 and the motor vehicles registered in any other State and brought for use or keeping for use in the State of Gujarat on or after the 1st April, 1999.

If the age of vehicle from the month of registration is --

	Rate of lump sum tax.
1. not more than 2 years	95% of the tax.
2. more than 2 years but not more than 3 years	90% of the tax.
3. more than 3 years but not more than 4 years	85% of the tax.
4. more than 4 years but not more than 5 years	80% of the tax.
5. more than 5 years but not more than 6 years	75% of the tax.
6. more than 6 years but not more than 7 years	70% of the tax.
7. more than 7 years but not more than 8 years	65% of the tax.
8. more than 8 years but not more than 9 years	60% of the tax.
9. more than 9 years but not more than 10 years	55% of the tax.
10. more than 10 years but not more than 11 years	50% of the tax.
11. more than 11 years but not more than 12 years	45% of the tax.
12. more than 12 years but not more than 13 years	40% of the tax.
13. more than 13 years but not more than 14 years	35% of the tax.
14. more than 14 years	30% of the tax.

**Explanation:—**For the purposes of this Schedule, the expression 'tax' means the tax leviable under the Sixth Schedule."

**STATEMENT OF OBJECTS AND REASONS**

This bill seeks to amend the Bombay Motor Vehicles Tax Act, 1958 with a view to giving effect to the Budget proposal contained in the Budget Speech of the Finance Minister in the Gujarat Legislative Assembly on the 24th February, 1999.

An opportunity is also taken to make provisions conferring power on the Taxation Authority either to deduct from or appropriate the amount of refund payable to a person towards payment of the amount of tax due for any other period from such person with his consent. Proposed sub-section (4A) in section 9 provides accordingly.

Dated the 17th March, 1999.

BIMAL SHAH.

By order and in the name of the Governor of Gujarat,

KUM. H.K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 17th March, 1999.



# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

THURSDAY, MARCH 18, 1999 / PHALGUNA 27, 1920

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

#### THE BOMBAY STAMP (GUJARAT AMENDMENT) BILL, 1999.

GUJARAT BILL NO. 11 OF 1999.

A. BILL

*Further to amend the Bombay Stamp Act, 1958.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Bombay Stamp (Gujarat Amendment) Act, 1999.

Short title and commencement.

(2) It shall come into force on the 1st April, 1999.

Bom. LX of 1958.

2. In the Bombay Stamp Act, 1958 (hereinafter referred to as "the principal Act"), in section 2, in clause (k), after sub-clause (ii), the following clause shall be inserted, namely :—

Amendment of section 2 of Bom. LX of 1958.

" (iii) impression by franking machine :—

3. In the principal Act, in section 10, after sub-section (2), the following sub-sections shall be inserted, namely :—

Amendment of section 10 of Bom. LX of 1958.

" (2A) The Chief Controlling Revenue Authority may authorise, subject to such conditions as it may deem fit, the use of franking machine for making impressions on instruments chargeable with duties, to indicate payment of duties on such instruments :



(2B) (i) Where the Chief Controlling Revenue Authority or Superintendent of Stamps authorised by him in this behalf, is, having regard to the number of instruments executed by a person and the amount of duty charged thereon, satisfied that it is necessary in the public interest, so to do, it or he may by an order in writing, authorise such person to use franking machine subject to such conditions as laid by general or special order in this behalf by the Chief Controlling Revenue Authority.

(ii) Where there is breach of any of conditions of the authorisation, the authority granting authorisation under clause (i) may revoke the authorisation.

(iii) The Chief Controlling Revenue Authority may, by order, determine the procedure for regulating the use of franking machine."

Amendment  
of section 53  
of Bom. LX of  
1958.

4. In the principal Act, in section 53, to sub-section (1), the following provisos shall be added, namely:—

"Provided that the Chief Controlling Revenue Authority shall not entertain an application made by a person under sub-section (1), unless,—

(a) such application is presented within a period of sixty days from the date of order of the Collector.

(b) such person deposits twenty-five per cent. of the amount of duty or, as the case may be amount of difference of duty payable by him in respect of subject matter of the instrument for which an application has been made:

Provided further that where in any particular case the Chief Controlling Revenue Authority is of the opinion that the deposit of the amount by the applicant may cause undue hardship to him, the authority may in its discretion, either unconditionally or subject to such conditions as it may think fit to impose, dispense with a part of the amount deposited so however that the part of the amount so dispensed with shall not exceed fifty per cent. of the amount deposited or required to be deposited."

Amendment  
of Schedule I  
to Bom. LX of  
1958.

5. In the principal Act, in Schedule I, in article 6, in clause (2), in item (ii), in column II, for the words "one rupee", the words "twenty paise" shall be substituted.

## STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Bombay Stamp Act, 1958 with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 24th February, 1999.

An opportunity is also taken to amend section 10 to authorise the use of franking machine for making impressions on instruments chargeable with duty to indicate payment of duty on such instruments. This facility of utilisation of franking machine would improve the efficiency of the administration and make it public oriented. It would also prevent intrusion of bogus stamps, theft of stamp papers and save the expenses incurring on printing of stamp papers.

In order to prevent the delayed payment of duty, it is also proposed to amend section 53 of the said Act to the effect that the Chief Controlling Revenue Authority shall not entertain an application made by a person against the specific order of the Collector unless such application is presented within a period of sixty days from the date of the order of the Collector and twenty-five per cent. of the amount of duty is deposited in respect of the subject matter of the instrument. Power is given to the authority to dispense with the requirement of deposit of the fifty per cent. of amount of deposit in the case of undue hardship.

VAJUBHAI VALA

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects :—

*Clause 3.—*(i) Sub-section (2A) proposed to be inserted by this clause empowers the Chief Controlling Revenue Authority to prescribe the conditions subject to which the franking machine can be used.

(ii) Clause (i) of sub-section (2B) proposed to be inserted in section 10 by this clause empowers the Chief Controlling Revenue Authority to authorise the Superintendent of Stamps to authorise any person to use the franking machine. It also empowers the authority to determine the conditions subject to which such person may be authorised to use the franking machine.

(iii) Clause (iii) of sub-section (2B) proposed to be inserted by this clause empowers the Chief Controlling Revenue Authority to determine the procedure for regulating the use of franking machine.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 18<sup>th</sup> March, 1999.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 18th March, 1999.



# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

MONDAY, MARCH 22, 1999 / CAITRA 1, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules :—

### THE BOMBAY ELECTRICITY DUTY (GUJARAT AMENDMENT) BILL, 1999.

#### GUJARAT BILL NO. 12 OF 1999.

#### A BILL

*further to amend the Bombay Electricity Duty Act, 1958.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follow :—

1. (1) This Act may be called the Bombay Electricity Duty(Gujarat Amendment) Act, 1999.

Short title  
and  
commence-  
ment.

(2) It shall come into force on the 1st April, 1999.

Bom. XL  
of 1958.

2. In the Bombay Electricity Duty Act, 1958 (hereinafter referred to as "the principal Act"), in section 2, in clause (c), for the words, figures and brackets "supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948", the words, figures, letter and brackets "supplying energy, the generating company as defined in sub-section (4A) of section 2 of the Electricity (Supply) Act, 1948 and the State Electricity Board constituted under section 5 of that Act of 1948" shall be substituted.

Amendment  
of section 2  
Bom. XL of  
1958.

LIV of  
1948.

LIV of  
1948.

3. In the principal Act, in section 3,—

(1) in sub-section (1), for the brackets, figure and letters "(2AA)", the brackets, figures and letters "(2AA), (2AAA)" shall be substituted;

Amendment  
of section 3  
Bom. XL of  
1958.

(2) in sub-section (2), in clause (vii), for sub-clause (a), the following shall be substituted, namely :—

" (a) in the case of an industrial undertaking which generates energy for its own use, five years from the 1st April, 1999, the date of com-



commencement of the Bombay Electricity Duty (Gujarat Amendment) Act, 1999 or the date of starting the generation of such energy, whichever is later;"

(3) sub-section (2A) shall be deleted;

(4) after sub-section (2AA), the following sub-section shall be added, namely :-

"(2AAA) (a) Nothing contained in this Act as amended by the Bombay Electricity Duty (Gujarat Amendment) Act, 1999 (hereinafter referred to as "the Amending Act of 1999") shall affect any exemption granted to an existing industrial undertaking before the 1st April, 1999 and such exemption shall continue for the period provided in sub-clause (a) of clause (vii) of sub-section (2) or, as the case may be, sub-section (2A), as if the Amending Act of 1999 was not passed. Guj. ....  
of 1999.

(b) Notwithstanding anything contained in sub-clause (a) of clause (vii) of sub-section (2) or sub-section (2A), as amended by the Amending Act of 1999, any existing industrial undertaking which was eligible for exemption under the provisions of sub-clause (a) of clause (vii) of sub-section (2) or sub-section (2A) before 1st April, 1999 but which did not avail of such exemption before that date shall be eligible for such exemption under the said sub-clause (a) of clause (vii) or the said sub-section (2A), as if the Amending Act of 1999 was not passed.

(c) Notwithstanding anything contained in sub-clause (a) of clause (vii) of sub-section (2) as amended by the Amending Act of 1999, where any undertaking has started generation of energy for its own use before the 1st April, 1999 but has not commenced manufacture or production of goods before that date, such undertaking shall be eligible for exemption under the said sub-clause (a) of clause (vii) of sub-section (2), as if the Amending Act of 1999 was not passed.

*Explanation.*—For the purpose of this sub-section, an existing industrial undertaking means an industrial undertaking which exists on the 1st April, 1999 and which manufactures or produces goods but does not include an undertaking which manufactures or produces any kind of food and drinks meant ordinarily for consumption on the premises of the undertaking."

Amendment  
of section 4  
of Bom. XL  
of 1958.

4. In the principal Act, in section 4, after sub-section (3), the following sub-section shall be inserted, namely :-

"(3A) The State Government or an officer authorised by the State Government in this behalf, may, in respect of any consumer,—

(a) extend the date of payment or allow him to pay electricity duty by instalments in such manner and on such conditions as may be prescribed,

(b) allow deferment of payment of electricity duty under such circumstances, on such conditions and for such period not exceeding five years in aggregate, as may be prescribed."

Amendment  
of section 9  
of Bom. XL  
of 1958.

5. In the principal Act, in section 9, for the words "fifty rupees", the words "one thousand rupees" shall be substituted.

Amendment  
of section 12  
of Bom. XL  
of 1958.

6. In the principal Act, in section 12, in sub-section (2), for clause (a), the following clause shall be substituted, namely :-

"(a) prescribe the time and manner of payment of electricity duty, the manner and conditions for extending the date of payment of electricity duty and payment of electricity duty by instalments; the circumstances in which and conditions subject to which and the period for which deferment of payment of electricity duty may be allowed under section 4;"

7. In the principal Act, in Schedule I, in Part I, below item (7), in *Explanation I*, in the proviso, after clause (b), the following clause shall be added, namely:—

Amendment of Schedule I to Bom. XL of 1958.

"(c) where a licensee who has installed the generating set for his own use supplies surplus electrical energy to any other industrial undertaking (hereinafter referred to as "the receiving undertaking"), the charges payable by any other consumer for such quantum of power to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located shall be deemed to be 'consumption charges' for such supply of energy."

8. In the principal Act, in Schedule II, in part I,—

Amendment of Schedule II to Bom. XL of 1958.

(1) in item 5, in sub-item (a), in column 2, for the figures and words "10 paise per unit", the figures and words "40 paise per unit" shall be substituted;

(2) in item 6, in column 2, for the figure and words "3 paise per unit", the figures and words "20 paise per unit" shall be substituted;

(3) in item 7, in column 2, for the figures and words "35 paise per unit", the figures and words "70 paise per unit" shall be substituted.

**STATEMENT OF OBJECTS AND REASONS**

This Bill seeks to amend the Bombay Electricity Duty Act, 1958 with a view to giving effect to the proposal contained in the Budget Speech of the Finance Minister in the Gujarat Legislative Assembly on the 24th February, 1999.

An opportunity is also taken to take power to extend the date of payment or allow to pay electricity duty by instalments and to defer the payment for the period not exceeding five years in aggregate. The proposed new sub-section (3A) in section 4 provides accordingly.

The penalty of rupees fifty provided in section 9 is proposed to be enhanced to rupees one thousand.

It is also proposed to insert in the proviso to *Explanation I* to Part I of the Schedule I so as to provide that in the cases where licensee who has installed the generating sets for his own use supplies surplus energy to any other industrial undertaking, the consumption charges for supply of such surplus energy shall be calculated as if the energy has been supplied by the licensee who is engaged in the business of supplying energy to public irrespective of the charges actually paid by receiving industrial undertaking for such energy.

KAUSHIK PATEL

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects :—

*Clause 4.*—Sub-section (3A) proposed to be inserted in section 4 by this clause empowers the State Government to prescribe by rules the manner in which and conditions subject to which the date of payment of duty may be extended and allowing such payment by instalments and also empowers the State Government to prescribe by rules the circumstances in which, conditions subject to which and period for which the deferment of payment of electricity duty may be allowed. It also empowers the State Government to authorise any officer for the aforesaid purpose.

*Clause 6.*—Clause (a) of sub-section (2) of section 12 proposed to be substituted by this clause empowers the State Government to make rules for the matters specified in the said clause (a).

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 1999.

KAUSHIK PATEL

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 22nd March, 1999.

V-EX. 12-2

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.





# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

MONDAY, MARCH 22, 1999 / CAITRA 1, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

(To be translated into Gujarati and the translation to be published in the  
*Gujarat Government Gazette*. The date of publication to be reported).

The following Bill is published with the consent of the Speaker given under  
the proviso to rule 127A of the Gujarat Legislative Assembly Rules:—

**THE GUJARAT SALES TAX (AMENDMENT) BILL, 1999.**

**GUJARAT BILL NO. 13 OF 1999.**

### A BILL

*further to amend the Gujarat Sales Tax Act, 1969.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1. (1) This Act may be called the Gujarat Sales Tax (Amendment) Act, 1999.

Short title and  
commence-  
ment.

(2) It shall come into force on the 1st April, 1999.

Amendment of  
section 2 of Guj.  
1 of 1970.

Guj. 1  
of 1970.

2. In the Gujarat Sales Tax Act, 1969 (hereinafter referred to as "the principal  
Act"), in section 2,—

(1) for clause (21), the following clause shall be substituted, namely :—

"(21) "prohibited goods" means the goods described in entries 4, 5, 17, 19,  
20, 21, 25, 27, 32, 35, 36, 37, 38, 40, 44, 45, 46 and 54, in Schedule II, Part A or in  
entries 1 and 7 in Schedule II, Part B and such other goods as the State Government  
may, from time to time, by notification in the *Official Gazette*, specify;"

(2) in clause (25), after the word and figures "section 29", the word and figures "or 30" shall be inserted;

(3) in clause (28), the existing *Explanation* shall be re-numbered as *Explanation I* and after the *Explanation I* as so re-numbered, the following *Explanation* shall be added, namely :—

"*Explanation II*.—For the purposes of sub-clause (c) of this clause, the expression "works contract" means a contract for execution of works and includes such works contract as the State Government may, by notification in the *Official Gazette*, specify;"

Amendment of  
section 3A of  
Guj. 1 of 1970.

3. In the principal Act, in section 3A, in sub-section (1), in clause (b), for the letters and figures "Rs. 5,000", the letters and figures "Rs. 50,000" shall be substituted.

Amendment of  
section 13 of  
Guj. 1 of 1970.

4. In the principal Act, in section 13, in clause (B), for the words "prohibited goods", the words "goods which are liable to tax at the rate of two paise in the rupee or less than that rate of two paise or the prohibited goods" shall be inserted.

Amendment of  
section 15B of  
Guj. 1 of 1970.

5. In the principal Act, in section 15B, in clause (b), for the words "six paise", the words "four paise" shall be substituted.

Insertion of new  
section 30 in  
Guj. 1 of 1970.

6. In the principal Act, after section 29, the following section shall be inserted, namely:—

Voluntary  
registration of  
dealers.

"30. (1) A dealer having a fixed or regular place of business in the State and who is not required to be registered under section 29, may apply in the prescribed manner for the certificate of registration to the authority prescribed for the purpose under section 29.

(2) If the prescribed authority is satisfied that the application made by the dealer under sub-section (1) is in order, it may grant him a certificate of registration in the prescribed form :

Provided that no certificate of registration under this section shall be granted to the dealer unless he deposits an amount of twenty-five thousand rupees in the Government Treasury for being adjusted against tax, penalty and interest, if any, payable by the dealer according to the returns furnished by him in the year in which the amount is deposited and in the year immediately succeeding :

Provided further that if after the expiry of two years from the date of registration, there is a balance left after adjusting the amount of tax, penalty and interest, if any, against the amount of deposit, the balance shall be refunded to the dealer under the provisions of section 52.

(3) The provisions of sub-section (4) and clause (a) of sub-section (7) of section 29 shall apply in respect of the amendment or cancellation of the certificate of registration granted under this section.

(4) Notwithstanding anything contained in this Act, every dealer who has been registered under sub-section (2) shall, so long as his registration remains in force, be liable to pay the tax under this Act."

7. In the principal Act, in section 30B, in sub-section (1); for the words, figures and letter "section 29 or 30A", the words, figures and letter "section 29, 30 or 30A" shall be substituted.

Amendment of section 30B of Guj. 1 of 1970.

8. In the principal Act, in section 59, —

Amendment of section 59 of Guj. 1 of 1970.

(1) after sub-section (5), the following sub-section shall be inserted, namely :—

"(5A) Where—

(a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicle, vessel or place; and

(b) the Commissioner has reason to believe that tax on such goods is or is likely to be evaded,

the Commissioner may stop the vehicle or the vessel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant."

(2) in sub-section 6,—

(i) for the words and figures "Code of Criminal Procedure, 1898", the words and figures "Code of Criminal Procedure, 1973" shall be substituted;

(ii) for the words, brackets and figure "sub-section (5)", the words, brackets, figures and letter "sub-sections (5) and (5A)" shall be substituted.

V of  
1898.  
2 of  
1974.

9. In the principal Act, after section 59AA, the following section shall be inserted, namely:—

Insertion of new section 59AAA in Guj. 1 of 1970.

Power  
to  
declare  
specified  
goods.

"59AAA. (1) Where the State Government is of opinion that tax is or is likely to be evaded on sales or purchases of goods which take place in the State subsequent to their import from other State and that with a view to preventing such evasion, it is necessary so to do, it may by notification in the *Official Gazette*, specify such goods (hereinafter referred to as "the specified goods").

(2) A registered dealer who intends to import specified goods from any other State for sale, use, consumption or any other disposal in the State, shall make a declaration in such form as may be prescribed and shall cause it to be carried with the specified goods, alongwith the documents to be carried under sub-section (3) of section 59A.



(3) On receipt of specified goods imported from other State, the registered dealer shall furnish a Statement in such form, to such authority and within such time, as may be prescribed.

Amendment of  
section 75 of  
Guj. 1 of 1970.

10. In the principal Act, in section 75,—

(1) in sub-section (1);—

(a) in clause (c), after the word and figures "section 29", the word and figures "or 30" shall be inserted;

(b) in clause (j), for the words, figures and letter "section 59 or section 59B", the words, figures and letters "section 59 or section 59A or section 59B" shall be substituted;

(c) the following proviso shall be added at the end, namely:—

"Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgement of the Court, such imprisonment shall not be less than three months and such fine shall not be less than rupees ten thousand."

Amendment of  
Schedule 1 to  
Guj. 1 of 1970.

11. In the principal Act, in Schedule I,—

(1) for the entry at serial No. 4, the following entry shall be substituted, namely:—

1	2	3
"4.	Bamboo, whether whole or split and articles made of bamboo	—";

(2) after the entry at serial No. 11, the following entry shall be inserted, namely:—

1	2	3
"11A	Buckets, drums and trunks of G.P. sheets or C. R. Sheets	—";

(3) after the entry at serial No. 16, the following entry shall be inserted, namely:—

1	2	3
"16A	(i) Chalk lumps (ii) Ground chalks, i.e. chalk in powder form	—";



(4) after the entry at serial No. 18, the following entry shall be inserted, namely:—

1	2	3
"18A	Chicory tubers or chicory roots whether cut or dried or processed	—";

(5) for the entry at serial No. 20, the following entry shall be substituted, namely:—

1	2	3
"20 (i)	Chillies, tamarind and turmeric (whole)	—
(ii)	Chillies, tamarind and turmeric in powder form	Except when sold in sealed package under a brand.";

(6) after the entry at serial No. 34, the following entry shall be inserted, namely:—

1	2	3
"34A	Fishing nets	—";

(7) in the entry at serial No. 49, in column 2, the words "when sold at a price not exceeding rupees fifty per kilogram" shall be deleted ;

(8) after the entry at serial No. 62, the following entry shall be inserted, namely :—

1	2	3
"62A	Mosquito repellents in any form including its equipment and devices	—";

(9) after the entry at serial No. 73, the following entry shall be inserted, namely:—

1	2	3
"73A	Printing blocks meant for use by printing press	—";

(10) after the entry at serial No. 74, the following entry shall be inserted, namely:—

1	2	3
"74AA	Radio (one or two bands)	—";

(11) the entry at serial No. 77 shall be deleted;

(12) after the entry at serial No. 80, the following entry shall be inserted, namely:—

1	2	3
"80A	Screen printing blocks meant for use in printing fabrics	—";

(13) after the entry at serial No. 82A, the following entry shall be inserted, namely:—

1	2	3
"82AA	Software	—";

(14) after the entry at serial No. 87, the following entry shall be inserted, namely:—

1	2	3
"87A	Timru leaves	—";

(15) after the entry at serial No. 92, the following entry shall be inserted, namely:—

1	2	3
"92A	Varat and vartadi	—";

(16) after the entry at serial No. 94, the following entry shall be inserted, namely:—

1	2	3
"94A	Winding wall clocks and winding time-pieces and spare parts and accessories thereof	—";

Amendment of  
Schedule II to  
Gui. I of 1970.

12. In the principal Act, in Schedule II, in Part A,—

(1) for the entry at serial No. 13A, the following entry shall be substituted, namely:—

1	2	3	4
"13A	Bearing of all types, including ball-bearings, roller bearings, taper bearings and niddle roller bearings and spare parts and components there of	Four paise in the rupee	Four paise in the rupee";

(2) in the entry at serial No. 20, in columns 3 and 4, for the words "Twelve paise", the words "Six paise" shall be substituted;

(3) in the entry at serial No. 42, in sub-entry (ii), in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(4) the entry at serial No. 47 shall be deleted;

(5) for the entry at serial No. 51, the following entry shall be substituted, namely:—

1	2	3	4
"51	Ready made garments and articles prepared from any textile or handloom fabrics	Two paise in the rupee	Two paise in the rupee";

(6) the entry at serial No. 53 shall be deleted;

(7) in the entry at serial No. 57, in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(8) the entries at serial No. 61, 72, 78 and 82 shall be deleted;

(9) in the entry at serial No. 85, sub-entry (ii) shall be deleted;

(10) existing entry at serial No. 94, shall be re-numbered as sub-entry (i) of that entry and after sub-entry (i) as so re-numbered, the following sub-entry shall be inserted, namely:—

1	2	3	4
"(ii)	Bulk drugs.	Two paise in the rupee	Two paise in the rupee";

(11) in the entry at serial No. 96, for sub-entry (i), the following sub-entry shall be substituted, namely:—

1	2	3	4
"(i) (a)	Domestic electrical appliances (whether fitted with or without electric motor) such as grinder, mixer, grinder-cum mixer, juicers, irons, hair dryers, washing machines, heaters, hot-plates, toasters, cooking ranges, ovens, vacuum cleaners and geysers and components, parts and accessories of any of them	Fifteen paise in the rupee	Fifteen paise in the rupee
(b)	Domestic flour mills and Commercial flour mills (whether fitted with or without electric motor)	Eight paise in the rupee	Eight paise in the rupee";

(12) the entry at serial No. 98 shall be deleted;

(13) existing entry at serial No. 101, shall be re-numbered as sub-entry (i) of that entry and after sub-entry (i) as so re-numbered, the following sub-entry shall be inserted, namely:—

1	2	3	4
	"(ii) Cement based mosaic tiles	Six paise in the rupee	Six paise in the rupee";

(14) in the entry at serial No. 102, in columns 3 and 4, for the words "Twelve paise", the words "Six paise" shall be substituted.

(15) the entry at serial No. 109 shall be deleted;

(16) in the entry at serial No. 111A, in column 2, for the words "Hydraulic jacks for trailers of tractors", the words "Hydraulic jacks for trailers of tractors and spare parts and accessories thereof" shall be substituted;

(17) in the entry at serial No. 112, in columns 3 and 4, for the words "Six paise", the words "Two paise" shall be substituted;

(18) in the entry at serial No. 116, in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(19) for the entry at serial No. 124, the following entry shall be substituted, namely :—

1	2	3	4
"124	Marble or granite (raw or polished) and articles or chips thereof	Six paise in the rupee	Six paise in the rupee";

(20) the entry at serial No. 127 shall be deleted;

(21) in the entry at serial No. 128, in sub-entry (3), in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(22) in the entry at serial No. 133,—

(a) in the sub-entries (i) and (iii), in columns 3 and 4, for the words "Eight paise", the words "Four paise" shall be substituted;

(b) in the sub-entries (ii), (iv), (v) and (vi), in columns 3 and 4, for the words "Twelve paise", the words "Four paise" shall be substituted;



(23) in the entry at serial No. 140, in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(24) the entry at serial No. 143 shall be deleted;

(25) in the entry at serial No. 145, in columns 3 and 4, for the words "Six paise", the words "Four paise" shall be substituted;

(26) in the entry at serial No. 163, in sub-entry (i), in columns 3 and 4, for the words "Fifteen paise", the words "Six paise" shall be substituted;

(27) the entry at serial No. 174 shall be deleted;

(28) in the entry at serial No. 192, sub-entry (ii) shall be deleted.

**STATEMENTS OF OBJECTS AND REASONS**

This Bill seeks to amend the Gujarat Sales Tax Act, 1969 with a view to giving effect to the proposal contained in the Budget speech of the Finance Minister in the Gujarat Legislative Assembly on the 24th February, 1999.

An opportunity is taken to amend the said Act so as to make provisions for preventing evasions of tax in respect of goods brought from other States for sale within the State and for widening the scope of search and inspection of goods on which tax is likely to be evaded. New sub-section (5A) proposed to be inserted in section 59 and new section 59AAA provide accordingly.

VAJUBHAI VALA

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:—

**Clause 2.**—(i) Clause (21) of section 2 proposed to be substituted by this clause empowers the State Government to declare other goods as prohibited goods.

(ii) Clause (28) of section 2 proposed to be amended by this clause empowers the State Government to specify any other contract as the works contract.

**Clause 6.**—(i) Sub-section (1) of new section 30 proposed to be inserted by this clause empowers the State Government to prescribe by rules the manner for applying certificate of registration.

(ii) Sub-section (2) of new section 30 empowers the State Government to prescribe by rules the form in which certificate of registration may be granted.

**Clause 9.**—(i) Sub-section (1) of new section 59AAA proposed to be inserted by this clause empowers the State Government to specify certain sales and purchases of goods which take place in the State subsequent to their import from other States, as specified goods.

(ii) Sub-section (2) of new section 59AAA empowers the State Government to prescribe by rules the form in which the registered dealer shall make a declaration in respect of the goods which he intends to import from other States.

(iii) Sub-section (3) of new section 59AAA empowers the State Government to prescribe by rules the form in which, authority to whom and the time within which, the registered dealer shall furnish statement.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 22nd March, 1999.

VAJUBHAI VALA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 22nd March, 1999.



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# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL J

TUESDAY, MARCH 23, 1999 / CAITRA 2, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

### Bills introduced in the Gujarat Legislative Assembly.

(To be translated in to Gujarati and the translation to be published in the  
*Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under  
the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :—

### THE GUJARAT APPROPRIATION BILL, 1999.

GUJARAT BILL NO. 14 OF 1999.

#### A BILL

*to authorise payment and appropriation of certain sums from and out of  
the Consolidated Fund of the State of Gujarat for the services of the  
financial year ending on the thirty-first day of March, 2000.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Appropriation Act, 1999.

Short title.

2. From and out of the Consolidated Fund of the State of Gujarat, there  
may be withdrawn sums not exceeding those specified in column 3 of the  
Schedule hereto annexed amounting in the aggregate to the sum of Twenty  
thousand six hundred three crores, twenty lakhs, sixty-nine thousands rupees  
towards defraying the several charges which will come in course of payment  
during the financial year 1999-2000, in respect of the services and purposes  
specified in column 2 of the Schedule.

Withdrawal of  
Rs. 2,06,03,20,69,000  
from and out of the  
Consolidated Fund  
of the State of  
Gujarat for the  
financial year  
1999-2000.

3. The sums authorised to be paid and applied from and out of the Appropriation.  
Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the  
services and purposes expressed in the Schedule in relation to the said year.



## SCHEDULE

(See sections 2 and 3)

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
1	Agriculture and Co-operation Department	Revenue 4,04,35,000	—	4,04,35,000
2	Agriculture	Revenue 2,26,15,35,000	—	2,26,15,35,000
		Capital 10,79,00,000	—	10,79,00,000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue 58,56,63,000	—	58,56,63,000
		Capital 3,00,60,000	—	3,00,60,000
4	Animal Husbandry and Dairy Development	Revenue 60,23,25,000	—	60,23,25,000
		Capital 2,00,000	—	2,00,000
5	Co-operation	Revenue 33,58,11,000	—	33,58,11,000
		Capital 22,78,95,000	—	22,78,95,000
6	Other expenditure pertaining to Agriculture and Co-operation Department	Capital 2,94,62,000	—	2,94,62,000
7	Education Department	Revenue 2,43,35,000	—	2,43,35,000
8	Education	Revenue 29,56,50,45,000	79,65,50,000	30,36,15,95,000
		Capital 2,20,000	—	2,20,000
9	Other expenditure pertaining to Education Department	Revenue 17,01,85,000	—	17,01,85,000
		Capital 41,05,95,000	—	41,05,95,000
10	Energy and Petro- Chemicals Department	Revenue 94,15,000	—	94,15,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2		3	
11	Tax Collection Charges (Energy and Petro-Chemicals Department)	Revenue 5,49,70,000	—	5,49,70,000
12	Energy Projects	Revenue 13,02,50,00,000 Capital 3,99,37,00,000	2,00,00,000 —	13,04,50,00,000 3,99,37,00,000
13	Other expenditure pertaining to Energy and Petro-Chemicals Department	Revenue 10,00,000 Capital 40,10,94,000	— —	10,00,000 40,10,94,000
14	Finance Department	Revenue 5,98,80,000 Capital 9,00,000	— —	5,98,80,000 9,00,000
15	Tax Collection Charges (Finance Department)	Revenue 52,90,67,000	—	52,90,67,000
16	Treasury and Accounts Administration	Revenue 35,11,46,000	—	35,11,46,000
17	Pension and other Retirement Benefits	Revenue 7,69,66,85,000	6,00,000	7,69,72,85,000
18	Other expenditure pertaining to Finance Department	Revenue 3,74,80,65,000 Capital 3,87,64,000	— 1,00,000	3,74,80,65,000 3,88,64,000
19	Repayment of debt pertaining to Finance Department and its servicing	Revenue — Capital —	25,64,47,51,000 9,34,21,06,000	25,64,47,51,000 9,34,21,06,000
20	Food, Civil Supplies and Consumer Affairs Department	Revenue 5,97,70,000	—	5,97,70,000
21	Civil Supplies	Revenue 95,30,78,000 Capital 2,000	— —	95,30,78,000 2,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding			
		Voted	Charged on the Consolidated Fund	Total	
1	2	3			
22	Food	Revenue	12,32,97,000	—	12,32,97,000
		Capital	5,25,01,000	—	5,25,01,000
23	Other expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Revenue	—	1,000	1,000
		Capital	95,45,000	—	95,45,000
24	Forests and Environment Department	Revenue	1,32,30,000	—	1,32,30,000
25	Forests	Revenue	87,41,16,000	—	87,41,16,000
		Capital	1,31,79,92,000	—	1,31,79,92,000
26	Environment	Revenue	7,42,00,000	—	7,42,00,000
27	Other expenditure pertaining to Forests and Environment Department	Capital	4,91,82,000	—	4,91,82,000
28	Governor	Revenue	—	1,99,80,000	1,99,80,000
29	Council of Ministers	Revenue	3,15,50,000	—	3,15,50,000
30	Elections	Revenue	6,84,57,000	—	6,84,57,000
31	Public Service Commission	Revenue	1,55,62,000	2,11,00,000	3,66,62,000
32	General Administration Department	Revenue	31,70,68,000	—	31,70,68,000
33	Economic Advice & Statistics	Revenue	7,89,69,000	—	7,89,69,000
34	Other expenditure pertaining to General Administration Department	Revenue	1,69,82,10,000	4,64,000	1,69,86,74,000
		Capital	17,93,18,000	—	17,93,18,000
35	State Legislature	Revenue	7,89,01,000	6,54,000	7,95,55,000
36	Loans and Advances to Government servants in Gujarat Legislature Secretariat	Capital	14,99,000	—	14,99,000

No. of Vote/ Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
1	2			3	
37	Health and Family Welfare Department	Revenue	2,36,69,000	—	2,36,69,000
38	Medical and Public Health	Revenue	7,39,76,54,000	—	7,39,76,54,000
39	Family Welfare	Revenue	1,37,99,96,000	—	1,37,99,96,000
40	Other expenditure pertaining to Health and Family Welfare Department	Revenue	76,62,25,000	—	76,62,25,000
		Capital	6,32,37,000	—	6,32,37,000
41	Home Department	Revenue	3,99,25,000	—	3,99,25,000
42	Police	Revenue	6,30,76,75,000	—	6,30,76,75,000
43	Jails	Revenue	24,68,71,000	—	24,68,71,000
44	Transport	Revenue	1,06,17,23,000	—	1,06,17,23,000
		Capital	25,00,00,000	—	25,00,00,000
45	State Excise	Revenue	4,75,28,000	—	4,75,28,000
46	Other expenditure pertaining to Home Department	Revenue	53,97,90,000	2,00,000	53,99,90,000
		Capital	44,45,56,000	—	44,45,56,000
47	Industries, Mines and Tourism Department	Revenue	2,15,04,000	—	2,15,04,000
48	Stationery and Printing	Revenue	40,88,10,000	—	40,88,10,000
49	Industries	Revenue	1,94,56,54,000	—	1,94,56,54,000
		Capital	23,10,60,000	—	23,10,60,000
50	Mines and Minerals	Revenue	18,95,34,000	—	18,95,34,000
51	Tourism	Revenue	21,44,20,000	—	21,44,20,000
		Capital	4,00,00,000	—	4,00,00,000
52	Other expenditure pertaining to Industries, Mines and Tourism Department	Revenue	13,17,66,000	—	13,17,66,000
		Capital	6,42,35,000	—	6,42,35,000



No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
53	Information and Broadcasting Department	Revenue 52,35,000	—	52,35,000
54	Information and Publicity	Revenue 23,72,94,000	—	23,72,94,000
55	Other expenditure pertaining to Information and Broadcasting Department	Revenue 2,22,32,000 Capital 28,66,000	— —	2,22,32,000 28,66,000
56	Labour and Employment Department	Revenue 1,47,20,000	—	1,47,20,000
57	Labour and Employment	Revenue 89,75,41,000	—	89,75,41,000
58	Other expenditure pertaining to Labour and Employment Department	Capital 5,37,98,000	—	5,37,98,000
59	Legal Department	Revenue 2,67,78,000	—	2,67,78,000
60	Administration of Justice	Revenue 83,18,94,000	10,27,74,000	93,46,68,000
61	Other expenditure pertaining to Legal Department	Revenue 4,31,05,000 Capital 5,95,64,000	— —	4,31,05,000 5,95,64,000
62	Legislative and Parliamentary Affairs Department	Revenue 1,79,94,000	—	1,79,94,000
63	Other expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital 8,44,000	—	8,44,000
64	Narmada, Water Resources and Water Supply Department	Revenue 3,97,95,000	—	3,97,95,000
65	Narmada Development Scheme	Capital 16,47,71,95,000	—	16,47,71,95,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
66	Irrigation and Soil Conservation	Revenue 7,86,59,65,000 Capital 3,19,46,00,000	— —	7,86,59,65,000 3,19,46,00,000
67	Water Supply	Revenue 1,46,88,05,000 Capital 4,04,93,00,000	— —	1,46,88,05,000 4,04,93,00,000
68	Other expenditure pertaining to Narmada, Water Resources and Water Supply Department	Revenue 1,00,000 Capital 16,14,15,000	— —	1,00,000 16,14,15,000
69	Panchayats, Rural Housing and Rural Development Department	Revenue 2,63,55,000	—	2,63,55,000
70	Community Development	Revenue 1,47,56,41,000	—	1,47,56,41,000
71	Rural Housing and Rural Development	Revenue 2,82,96,96,000 Capital 3,49,50,000	1,10,20,53,000 —	3,93,17,49,000 3,49,50,000
72	Compensation and Assignments	Revenue 37,65,60,000	—	37,65,60,000
73	Other expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue 38,29,80,000 Capital 28,52,10,000	— —	38,29,80,000 28,52,10,000
74	Fisheries	Revenue 22,02,40,000 Capital 8,80,92,000	— —	22,02,40,000 8,80,92,000
75	Other expenditure pertaining to Ports and Fisheries Department	Revenue 74,52,000 Capital 24,41,000	— —	74,52,000 24,41,000
76	Revenue Department	Revenue 6,20,51,000	—	6,20,51,000
77	Tax Collection Charges (Revenue Department)	Revenue 48,95,91,000	—	48,95,91,000
78	District Administration	Revenue 60,59,94,000	—	60,59,94,000

No. of Vote/ Appropriation	Services and purposes.	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
79	Relief on account of Natural Calamities	Revenue 3,30,56,00,000	—	3,30,56,00,000
80	Dangs District	Revenue 14,71,78,000	—	14,71,78,000
81	Compensation and Assignments	Revenue 18,28,00,000 Capital 8,00,000	11,80,000 3,00,000	18,39,80,000 11,00,000
82	Other expenditure pertaining to Revenue Department	Revenue 47,35,000 Capital 4,69,38,000	1,000 —	47,36,000 4,69,38,000
83	Roads and Buildings Department.	Revenue 4,15,65,000	—	4,15,65,000
84	Non-Residential Buildings	Revenue 1,77,98,02,000 Capital 1,17,20,47,000	3,75,000 —	1,78,01,77,000 1,17,20,47,000
85	Residential Buildings	Revenue 71,03,01,000 Capital 23,48,82,000	— —	71,03,01,000 23,48,82,000
86	Roads and Bridges	Revenue 4,11,13,19,000 Capital 2,27,20,44,000	— —	4,11,13,19,000 2,27,20,44,000
87	Gujarat Capital Construction Scheme	Revenue 7,68,25,000 Capital 32,74,00,000	— —	7,68,25,000 32,74,00,000
88	Other expenditure pertaining to Roads and Buildings Department	Revenue 10,05,85,000 Capital 14,69,00,000	— —	10,05,85,000 14,69,00,000
89	Social Justice and Empowerment Department	Revenue 2,13,19,000	—	2,13,19,000
90	Social Security and Welfare	Revenue 2,14,92,39,000 Capital 4,68,95,000	57,35,000 —	2,15,49,74,000 4,68,95,000
91	Welfare of Scheduled Tribes	Revenue 51,19,37,000 Capital 1,60,62,000	— —	51,19,37,000 1,60,62,000
92	Other expenditure pertaining to Social Justice and Empowerment Department	Capital 1,16,13,000	—	1,16,13,000

No. of Vote/ Appropriation	Services and purposes	Sums not exceeding		
		Voted	Charged on the Consolidated Fund	Total
1	2	3		
93	Special Component Plan for Scheduled Castes	Revenue 2,79,28,21,000 Capital 17,16,03,000	— —	2,79,28,21,000 17,16,03,000
94	Tribal Area Sub-Plan	Revenue 8,29,58,78,000 Capital 1,92,22,26,000	— —	8,29,58,78,000 1,92,22,26,000
95	Sports, Youth and Cultural Activities Department	Revenue 81,50,000	—	81,50,000
96	Youth Services and Cultural Activities	Revenue 27,04,52,000	—	27,04,52,000
97	Other expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital 22,60,000	—	22,60,000
98	Urban Development and Urban Housing Department	Revenue 1,42,90,000	—	1,42,90,000
99	Urban Housing	Revenue 11,05,83,000	32,86,40,000	43,92,23,000
100	Urban Development	Revenue 2,07,60,44,000 Capital 2,75,00,000	— —	2,07,60,44,000 2,75,00,000
101	Compensation, Assignments and Tax Collection Charges	Revenue 79,13,00,000	25,51,03,000	1,04,64,03,000
102	Other expenditure pertaining to Urban Development and Urban Housing Department	Revenue 1,39,75,000 Capital 16,10,000	— —	1,39,75,000 16,10,000
Total :		Revenue 1,29,63,44,30,000 Capital 38,75,49,72,000	28,30,01,61,000 9,34,25,06,000	1,57,93,45,91,000 48,09,74,78,000
Grand Total :		1,68,38,94,02,000	37,64,26,67,000	2,06,03,20,69,000



**STATEMENT OF OBJECTS AND REASONS**

Article 204(1) of the Constitution of India requires that as soon as may be after the grants have been made by the Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of the State of all moneys required to meet—

(a) the grants so made by the Assembly, and

(b) the expenditure charged on the Consolidated Fund of the State but not exceeding in any case the amount shown in the Statement previously laid before the Legislative Assembly.

The Bill accordingly specifies the gross amount required to meet grants made by the Assembly and the Expenditure charged on the Consolidated Fund of this State for the financial year ending on the 31st March, 2000.

The amounts are shown below :—

	Rs.
(a) Revenue Expenditure	1,57,93,45,91,000
(b) Capital Expenditure	48,09,74,78,000
Total	<u>2,06,03,20,69,000</u>

Dated the 23rd March, 1999.

VAJUBHAI VALA

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 23rd March, 1999.

GOVERNMENT CENTRAL PRESS, GANDHINAGAR.



# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

WEDNESDAY, MARCH 24, 1999 / CAITRA 3, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 24th March, 1999 by  
Shri BHARATBHAI PANDYA is published under rule 127-A of the Gujarat  
Legislative Assembly Rules for general information.

**THE GUJARAT MUNICIPALITIES (AMENDMENT) BILL, 1999.**

**GUJARAT BILL NO. 15 OF 1999.**

*A BILL*

*further to amend The Gujarat Municipalities Act, 1963.*

It is hereby enacted in the Fiftieth Year of the Republic of India as  
follows :

1. (1) This Act may be called the Gujarat Municipalities (Amendment)  
Act, 1999.

Short  
title  
and  
commencement.

(2) It shall come into force at once.

2. In the Gujarat Municipalities Act, 1963 section 129A shall be deleted.

Deletion  
of  
section  
129A  
of Guj.  
34 of  
1964.

Guj. 34  
of 1964.

**STATEMENT OF OBJECTS AND REASONS**

Under Section 129A of the Gujarat Municipalities Act, 1963, a Municipality can lease by public auction or private contract the collection of octroi in its area. It has been experienced by all concerned that this system has many disadvantages. The Lessee is generally an anti-social person and is harassing the small merchants. The small merchants of the small town has no other way except to concede to his demands. The lessee is generally charging more octroi than the scheduled rates fixed by the particular Municipality. There are number of examples where the merchants legally entitled for refunds of octroi are not given such refunds. The lessee is also not keeping proper accounts of the octroi collected by him on behalf of the Municipality. It is found several times that receipt on a small piece of paper is given instead of regular prescribed printed receipts. The lessee is making money by charging more. This leads to unnecessary harassment to small merchants as well as loss of revenue to the municipality. To avoid this, it is suggested to delete sect. 129A of the Gujarat Municipalities Act, 1963 allowing lease of octroi to private parties by municipality. This Bill seeks to achieve the above objects.

Gandhinagar.

Date : 5th March, 1999.

BHARAT PANDYA

M.L.A.

DHANDHUKA.

Gandhinagar,

Dated the 24th March, 1999.

K.M. PANCHAL,

Secretary,

Gujarat Legislative Assembly.



सत्यमेव जयते

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## PART - V

Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 24th March, 1999 by Shri Dolatbhai Parmar is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

GUJARAT BILL NO. 16 OF 1999.

THE GUJARAT PUBLIC LIBRARIES BILL, 1999

A BILL

*to provide for the establishment, maintenance and development of public libraries and the organisation of the comprehensive rural and urban library service in the State of Gujarat.*

It is hereby enacted in the Fiftieth year of the Republic of India as follows :—



## CHAPTER—I

## PRELIMINARY

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Gujarat Public Libraries Act, 1987.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless the context otherwise requires:—

(1) "book" includes:—

(a) every volume, part or division of a volume and pamphlet, in any language;

(b) every sheet of music, map, chart or plan separately printed or lithographed;

(c) newspapers, periodicals and such other materials;

(d) photographic and audiovisual materials; and

(e) computer output in any form and computer programmes.

(2) 'Book Deposit Centres' or 'Book Service Centres' means centres where books are issued to members of the public from the books deposited at a centre from time to time or from books mobiles.

(3) 'Director' means the Director of Primary and Adult Education.

(4) 'District' means the revenue district.

(5) 'District Authority' means the District Library Authority for the District;

(6) 'Library Service' means reference service, reading on the premises, lending out books to members of public libraries, helping groups with books, helping people to know the whereabouts of a book or books and helping them to procure the books they need.

(7) 'Public Library' means a library including the branches and book service centres and/or book deposit centres within the public library system of the State which permits the members of the public to use its materials for reading, reference or borrowing without charging any fee or subscription, in any form and which is maintained by.

(i) Government,

(ii) Local bodies

or

which is declared to be eligible for aid and receiving aid from the State Government and any other library notified by the State Government as a public library for the purposes of this Act.

(8) 'Reference Services' means assistance from the Library Staff to the reader or user of the Library to enable him to know; locate and consult books and other materials, to secure from such books and materials information relevant to his purpose.

(9) 'State' means the State of Gujarat.

(10) 'State Authority' means the Gujarat State Library Authority for the State.

(11) 'Taluka' means the revenue taluka.

(12) 'Year' means the financial year.

## CHAPTER—II

### PUBLIC LIBRARIES IN THE STATE

3. (1) The State Government shall establish, maintain and develop an integrated and adequate public library service in the urban and rural areas of the State.

(2) For carrying out the purposes of this section, the State Government may—

(a) acquire for its public library system adequate literature, including:—

(i) books published in the State;

(ii) books published anywhere in the Gujarati language;

(iii) books bearing on the State, its people, history, culture, language and literature;

(iv) State and Union Government publications;

(v) a representative collection of books in English, Hindi and other Indian and Foreign languages.

(b) offer in its public library system an adequate library service and reference service to the people of the State;

(c) promote the use of books for the benefit of the people;

(d) establish and sponsor organisations and institutions and recognise State Library Associations with a view to promote public interest and participation in the public library system;

(e) provide and/or promote library training facilities to secure adequately trained personnel for libraries in the State;

(f) provide or secure suitable conditions of service for the library personnel in the State;

(g) promote co-operation among:—

(i) various types of libraries, and

(ii) cultural and educational institutions in the Country;

(h) provide and/or promote production or useful library literature, bibliographies, catalogues, etc.

### CHAPTER—III

#### LIBRARY AUTHORITIES

Machinery  
for Library  
service.

4. The State Government shall discharge its responsibility under section 5 through:

(1) The Director.

(2) The Gujarat State Library Authority and the District Library Authority.  
and

(3) The State Public Library System.

Constitution  
and incorpo-  
ration of  
State  
Library  
Authority  
and District  
Library  
Authorities.

5. (1) As soon as may be, after the commencement of this Act, the State Government, shall by notification in the *Official Gazette*, constitute for the purposes of this Act, an authority to be called 'the Gujarat State Library Authority' for the State and the 'District Library Authority' for each district. Such authority shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued and shall be competent, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable and to contract and to do all things necessary for the purposes of this Act.

(2) The Gujarat State Library Authority shall consist of the following members; namely:—

(a) The Minister-in-charge of Education, who shall be the President of the Authority.

- (b) The Secretary, Education Department.
  - (c) The Director of Primary and Adult Education who shall be the Secretary of the Authority.
  - (d) The Chief Librarian (presently known as the Curator of Libraries) of the State Central Library.
  - (e) Development Commissioner.
  - (f) Two members of the Gujarat Legislative Assembly to be nominated by the Speaker.
  - (g) Three Chairman of District Library Authorities to be nominated by the State Government.
  - (h) Two representatives from the State Library Associations nominated by their Executive Committee.
  - (j) (i) Three non-officials having special knowledge of libraries to be nominated by the State Government.
  - (ii) Two non-officials having special interest in literature, culture, research and social education to be nominated by the State Government.
- (3) There shall be a 'District Library Authority' for public libraries in each district of the State. This District Authority will assist the State Authority, and utilize the funds allocated to it or received by it.
- (4) The District Authority shall consist of the following members namely:—
- (a) District Collector who shall be the chairman of the Authority.
  - (b) Chairman, District Education Committee.
  - (c) Principals of Colleges in the District.
  - (d) District Primary and Adult Education Officer, who shall be the Secretary of the authority.
  - (e) Divisional Curator of Libraries.
  - (f) A laureate from the District.
  - (g) President of the Municipality or Mayor of the Municipal Corporation at the District Head Quarter.



(h) District Librarian,

(i) Two experts in Library Science to be nominated by the State Authority.

Functions of  
the State  
Library  
Authority.

6. Subject to the provisions of this Act, the powers and functions of the State Authority shall be as follows,—

(a) to advise the State Government on all matters relating to libraries in general;

(b) to allocate necessary funds for various purposes to District Authorities.

(c) to allot grant-in-aid to the Libraries and Associations at such rate and for such purposes as may be prescribed by the State Authority;

(d) to exercise and perform such powers and duties conferred or imposed upon it by or under this Act;

(e) to prepare the annual as well as short or long term plans for libraries in the State;

(f) to prepare and publish descriptive and statistical reports on the working of all libraries in the public Library System in the State;

(g) to arrange or to secure training of various categories of library employees;

(h) to provide or promote useful library literature;

(i) to conduct inspection of and render advisory service to the public libraries in the State;

(j) to administer the system of grant-in-aid to the libraries;

(k) at the interval of every five years after the Act comes into operation, to get the evaluation done through independent expert person or persons and review the state of affairs of the library services and to recommend measures to be adopted for the improvement of the library service;

(l) to lay down the pattern and standards of library services for the public libraries and book service centres or book deposit centres through out the State, and

(m) to furnish an annual report on its working as soon as may be after the end of each financial year to the State Government and place a copy of the same before the State Legislature.

7. (1) The members of the State authority and the District Authority, other than ex-officio members, shall hold office for a term of five years, from the date of constitution of such Authority. All casual vacancies among such members shall be filled by nomination by the President or the Chairman of such Authority and a member so nominated shall hold office only for the remaining period.

Qualification,  
Eligibility,  
Responsi-  
bility and  
Term of  
Office of  
the Autho-  
rities.

(2) A member of the State Authority or the District Authority will be disqualified on grounds of his being of unsound mind and insolvent.

(3) Every member of such Authority shall be personally liable for the loss, waste or misappropriation of any money or other property which has been caused or facilitated by his misconduct or neglect of his duty as a member. The member has to pay such amount of the loss and if the amount is not so paid, it shall be recovered from him or his successor as an arrears of land revenue.

(4) Nominated or elected members of such Authorities should not be more than 65 years of age and they should be appointed as members of such Authorities for not more than two terms.

8. The State Authority and the District Authority shall meet at least thrice in every year.

Meetings of  
the Autho-  
rities.

9. The State Authority may make regulations for its own as well as for the District Authority for transacting the business and for matters in respect of which regulations are to be framed by it under this Act.

State Autho-  
rity to frame  
regulations

10. (1) The Director of Primary and Adult Education under the Education Department shall be in-charge of the Public Libraries of the State and his office will be known as the office of the State Authority.

Office of the  
Authority  
Inspectorat  
and its fun-  
ctions.

(2) The Director shall perform the following duties, namely:—

(a) He shall participate in all the meetings of the State Authority and Committees which may be set up by the State Authority.

(b) He shall be responsible for carrying out the recommendations of the State Authority.

(c) He shall perform such other duties as may be prescribed in the regulations made by the State Authority.

(d) Subject to may rules made by the State-Government, the Director shall—

(i) implement the programme of work of the financial year as approved by the State Authority;

- (ii) administer the grant-in-aid system to the libraries;
- (iii) sanction the absorption of any other library into the public library system of the State;
- (iv) approve the constitution and bye-laws of public library aided by the State Government.

Public  
Library  
System.

11. The Public Library System in the State shall consist of—

- (i) The State Central Library; and
- (ii) The District Library System.

State  
Central  
Library.

12. There shall be a State Central Library located in the State Capital or any other place as may be decided by the State Government:

Chief  
Librarian.

13. (1) The Curator of Libraries will be the Officer-in-charge of the State Central Library and shall be known as the 'Chief Librarian' and he shall be appointed by the State Government.

(2) The Chief Librarian shall—

(i) be responsible for the management of the State Central Library and shall conduct all its approved activities;

(ii) superintend, direct and deal with all matters relating to an acquisition of books published in the State and to the maintenance and service of those books;

(iii) advise the Director on all technical matters, and

(iv) submit to the Director, annual report on the working of the library.

(3) The Chief Librarian shall be assisted by technical and general staff as approved by the Govt. for running the State Central Library.

Functions of  
State  
Central  
Library.

14. The functions of the State Central Library shall be as follows:—

(a) to serve as the depository of books received under the Press and Registration of Books Act, 1867;

(b) to maintain a representative collection of books and publications, such as those mentioned in sub-section (2) of Section-3.

(c) to maintain a collection of reference works;

(d) to maintain a union-catalogue of the collection of important libraries in the State;

(e) to undertake bibliographical works, and to prepare useful catalogues and

(e) to undertake bibliographical works, and to prepare useful catalogues and bibliographies;

(f) to offer in co-operation with departmental and research libraries, library and bibliographical service to institutions, groups and individuals engaged in higher studies and research;

(g) to organise book exhibitions, seminars, conferences, workshop

(h) to provide technical assistance and information to the Director, the Public Library System;

(i) to act as the centre of book-exchange, book-storage and inter-library loan;

(j) to function as information and reference centre;

(k) to provide library service for children;

(l) to render reading, lending and reference services, and

14 of  
1957.

(m) to prepare and publish useful professional literature, monthly and cumulative regional bibliography of publications received under the Copyright Act, 1957 as well as those included in the Indian National Bibliography;

15. (1) The stock of books in the State Central Library shall consist of <sup>Stock of</sup> books, book stock acquired through any legislation for the time being in force providing for compulsory acquisition of books published in the State, books acquired otherwise by Library purchase exchange, gifts, bequests and books published by the State and Union Government.

(2) Materials in the State Central Library may also include books as those mentioned in the sub-section (1) of section 2.

16. (1) The Head of any Department or Office in the State Government shall <sup>Delivery of</sup> deliver to the State Central Library all books in his office no longer needed there, <sup>books to</sup> but which in the judgment of the Chief Librarian will be of use in the State Central <sup>State</sup> Library by <sup>Government</sup> Public Library System. <sup>Department.</sup>

(2) All books and other materials which are to be purchased by the Chief Librarian shall be only purchased by him on the advice of a Book Selection Committee to be appointed by the State Authority.

17. (1) The District Library System shall be an integrated system giving <sup>District</sup> library service to the residents of the district. <sup>Library</sup> <sup>System.</sup>

(2) The District Library System shall consist of following categories of Libraries:—

(a) District Central Library,



(b) Libraries as those mentioned under section 2(7).

(c) Libraries including book deposit centres, branch libraries and book services centres, established and/or managed by the District/Taluka Panchayats and/or Municipalities in the district.

(3) A District Central Library shall be managed by the State Government at the Head Quarter of a District or at any other City as decided by the District Authority, to render such library services for the whole district as mentioned in clauses (I) to (II) of section 18.

(4) The District Panchayats shall establish and manage public libraries and book deposit centres or book service centres within the district, excepting where there are Municipalities, through the District Panchayat Library Committees.

(5) The Municipalities shall establish and manage public libraries within their jurisdiction through Municipal Library Committees.

(6) (a) The District Panchayat Library Committee and Municipal Library Committees shall be constituted in accordance with such rules and regulations as may be framed by the State Authority, for carrying out the purposes of the District Library System.

(b) At least 1/3 of the members of such Library Committees shall be members other than members of District Panchayat or Municipality having intimate connections with the library activities;

(c) The Librarian of the District Central Library shall be the ex-officio member of the District Panchayat Library Committee.

(7) (a) The Local Library Committees in the District mentioned in sub-sections (4) and (5) of this section shall provide adequate library service within their jurisdiction.

(b) The District Panchayats shall soon after the commencement of this Act take measures to establish public libraries and book deposit centres and book service centres in all the villages wherever there are primary schools.

(8) (a) For the purpose of providing library service under this Act, the local bodies mentioned in sub-sections (4) and (5) of this section shall establish and manage libraries and if need arises, shall take over the privately managed libraries on such terms and conditions as may be approved by the State Authority in consultation with the State Government.

(b) Notwithstanding anything contained in the relevant local authority law, it shall be the duty of every local body to establish and maintain in the areas

within their respective jurisdiction a public library or public libraries at such place or places as may be determined, on the advice of the State Authority and the State Government and to provide therein library service to the public to the satisfaction of the Director :

Provided that if any local authority which is required to establish and maintain a public library at any place satisfies the State Government that it is not in a position to provide adequate or satisfactory library service at such place or that any such service at such place is not likely to serve the purpose for which it is intended, the State Government may by order exempt such local authority from its obligations to establish and maintain a public library at such places.

18. The functions of a District Central Library shall be as follows.

Functions of  
a District  
Central  
Library.

- (1) to maintain a representative collection of books on all subjects;
- (2) to maintain a representative collection of reference works;
- (3) to render, reading, lending and reference services to all the people of the district;
- (4) to provide reference and bibliographical service in the district;
- (5) to provide books to the District Panchayats for extending library service in rural areas for book deposits centres and/or book service centres in the district;
- (6) to feed and supplement the book stock of libraries in the district by suitable loan of books;
- (7) to assist the libraries in the district in the technical processes such as classification, cataloguing and such other matters;
- (8) to assist the libraries in the district in book selection and acquisition;
- (9) to co-operate with other institutions and groups especially the social education institutions and workers in promoting library-mindedness among the people;
- (10) to arrange conference and seminars of librarians and other library workers in the district;
- (11) to provide refresher courses for workers in the District Library System.

19. The District Primary and Adult Education Officer will inspect the libraries in the district and render them assistance for their efficient management.

Inspector to  
at the  
District.

Employees  
of the Public  
Library  
System.

20. (1) The State Authority shall laydown the qualifications, salary scales and other terms and conditions for the employees in various categories of library service, which will be applicable to the library employees in the service of public library system.

(2) No Librarian shall be asked to furnish security for his being in charge of library books, nor shall a Librarian be required to pay for loss of or damage to books unless negligence or dishonesty is proved against him.

#### CHAPTER IV

##### FINANCE

State  
District  
Library Fund.

21. (1) There shall be a State Library Fund.

(2) There shall be credited into the State Library Fund,—

(a) every year, an amount equivalent to 10% of the average of the total expenditure incurred on education by the State during the last two years or an amount which shall not be less than Rs. 10/- per illiterate person of the population of State which ever is higher,

(b) contributions or any specific grant received from the Central and State Governments,

(c) the amount received under the Library rules of the State Central Library and the District Central Libraries,

(d) any amount received as gift, contribution or endowment for development of public libraries.

(3) The money credited into the State Library Fund shall be utilised by the State Authority for carrying out the purposes of this Act.

(4) There shall be also District Library Fund for each District Authority and to each of these funds shall be credited,—

(i) the amount allocated by the State Authority from the State Library Fund,

(ii) any amount contributed by the District Panchayat or Municipality for the library activities,

(iii) any amount received as gift, contribution or endowment for development of public libraries.

## CHAPTER V

## MISCELLANEOUS

21) The State Authority may plan a scheme or schemes or may borrow money with the approval of the State Government for purchasing land, buildings, State Authority to borrow and make schemes.

22) (1) The Director shall recognise State Library Associations, the constitution of which shall be approved by him, State Library Association.

(2) The State Government shall assist the State Library Associations by providing suitable grants for the activities approved by the State Authority.

23. (1) The State Government may, after previous publication by notification, in the Official Gazette, make rules to carry out the purposes of this Act. Rules.

(2) Every rule made under this Act, shall, as soon as may be after it is made, be laid before the State Legislature while it is in session for the total period of thirty days which may be comprised in one session or in two or more sessions and if before the expiry of the session in which it is so laid or the session immediately following, the State Legislature agrees in making any modification in the rule or that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be. However, any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

24. (1) If at any time, it appears to the State Government that the State Authority or the District Authority or any District or local Library Committee has failed to perform its functions or has exceeded or abused any of the powers conferred on it by or under this Act, the State Government may communicate the particulars hereof to the concerned Authority or Committee and if such Authority or Committee omits to remedy such failure, excess or abuse or fails to give a satisfactory explanation in this behalf, the State Government may supersede such Authority or the Committee after giving an opportunity of rendering an explanation, for such period as the State Government may direct. Supersession of the State or District Authority or Local Library Committee.

(2) If any such Authority or the Committee is superseded—

(a) all the powers and duties of such Authority or the Committee shall during the period of supersession, be exercised and performed by such person or persons as the State Government may from time to time appoint in this behalf;

(b) all property vested in such Authority or the Committee shall during the period of supersession, vest in the State Government; and

(c) on the expiry of the period of supersession, such Authority or the Committee shall be reconstituted in the manner provided in this Act.



## STATEMENT OF OBJECTS AND REASONS

The need for a library legislation has been felt for a very long time. The libraries in the State have started functioning long back, even then they are lacking in the co-ordinated development and the organised pattern. The object of this bill, therefore, is to set up a co-ordinated library agency in the State with a well chalked out line of functioning along with the necessary provisions for the maintenance and development of free libraries in the State. Utmost care has also been taken to provide the necessary finance for the above mentioned scheme and to see that the Library Authority is saved from becoming a toy in the hands of the administration. A uniform efficient growing and co-ordinated library service and the establishment and maintenance of a developing net work of libraries can only be achieved on a permanent basis by way of a statute and the object of the bill is to fulfil the above mentioned aims.

Gandhinagar,

DOLATBHAI PARMAR

M.L.A.

Dated the 8th March, 1999.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves certain proposals for the delegation of legislative powers in the following respects :

**Clause 1(3):**—This clause empowers the State Government to bring the Act into force.

**Clause 5(1):**—This clause empowers the State Government to constitute necessary Authorities for the purposes of the Act.

**Clause 6(c):**—This clause empowers the Authority to make rules for grant-in-aid to the libraries.

**Clause 9:**—This clause empowers the Authority to frame regulations for its own and for the District Library Authority for transaction of the business and other matters.

**Clause 10(2)(c):**—This clause empowers the State Authority to prescribe other duties of the Director.

*Clause 17(6) (a):*—This clause empowers the State Authority to frame Rules and Regulations for constituting District Panchayat Library Committee and Municipal Library Committee.

*Clause 20 (1):*—This clause empowers the State Library Authority to lay down qualifications, salary scales and other terms and conditions for the employees in Library Service.

*Clause 24 (1):*—This clause empowers the State Government to make rules to carry out the purposes of the Act.

*Clause 25 (1):*—This clause empowers the State Government to supersede inactive Authorities and Committees.

The delegation of the legislative powers is of normal character.

Dated the 8th March, 1999.

DOLATBHAI PARMAR  
M.L.A.

#### FINANCIAL MEMORANDUM

Clause 21 of the Bill provides for the creation of a State Library Fund. The expenditure to be involved from the Consolidated Fund of the State is difficult to be estimated. The payment by the State Government to this Fund however will be of a recurring nature.

Dated the 8th March, 1999.

DOLATBHAI PARMAR  
M.L.A.

Gandhinagar,  
Dated the 24th March, 1999.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.



सत्यमेव जयते

# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

TUESDAY, MARCH 30, 1999 / CAITRA 9, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V -

### Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

### THE GUJARAT INFRASTRUCTURE DEVELOPMENT BILL, 1999.

#### GUJARAT BILL NO. 17 OF 1999.

#### A Bill

*to provide for a framework for participation by persons other than the State Government and Government agencies in financing, construction, maintenance and operation of infrastructure projects and for that purpose to establish the Board and to provide for the matters connected therewith.*

It is hereby enacted in the Fiftieth Year of the Republic of India as follows:-

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Gujarat Infrastructure Development Act, 1999. Short title,  
extent and  
commence-  
ment.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification, in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,—

- (a) "Board" means the Gujarat Infrastructure Development Board established under section 16;
- (b) "concession agreement" means a contract of the nature specified in the Schedule II between a developer and the State Government, a Government agency or a specified Government agency relating to a project;
- (c) "developer" means a person with whom concession agreement is entered into by the State Government, the Government agency or the specified Government agency;
- (d) "escrow account" means a bank account in which cash is deposited or from which cash is withdrawn in such manner as specified in the concession agreement;
- (e) "Government agency" means a corporation or a body owned or controlled by the State Government or an authority established by or under any law and includes a local authority;
- (f) "infrastructure" means facilities and services provided by a project;
- (g) "local authority" means a municipal corporation, nagar panchayat, municipal council, notified area committee, district panchayat, taluka panchayat, village panchayat or such other body;
- (h) "member" means a member of the Board including Chairman, Vice-Chairman and Member - Secretary;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "project" means a project specified in Schedule I;
- (k) "regulations" means regulations made under section 35;
- (l) "rules" mean rules made under section 34;
- (m) "senior loan" means a loan in respect of which a claim on assets is prior to the claim on the assets in respect of other loan and which is specified as such in an agreement providing finance;
- (n) "specified Government agency" means an agency consisting of the State Government and a Government agency participating jointly;
- (o) "State Government guarantee" means a guarantee given by the State Government to a developer consistent with the provisions of the Gujarat State Guarantees Act, 1963;
- (p) "subordinate loan" means a loan in respect of which a claim on assets is subsequent to the claim on the assets in respect of another loan and which is specified as such in an agreement, providing finance;
- (q) "subsidy" means financial assistance in cash or kind provided by the State Government, the Government agency or the specified Government agency;
- (r) "user fees" means fees charged under section 11.



## CHAPTER II

## INFRASTRUCTURE PROJECTS

3. Any person may participate in financing, construction, maintenance and operation of projects.

Partici-  
pation in  
projects.

4. (1) (a) A person may enter into a concession agreement of the nature specified in Schedule II with the State Government, a Government agency or a specified Government agency.

Concession  
agreement.

(b) The scheme for a concession agreement shall be such as may be prescribed.

(2) Where the Board is satisfied that, having regard to the nature of a project, it is necessary so to do, it may permit combination of two or more agreements of the nature specified in Schedule II into one agreement.

(3) No concession agreement shall provide for transfer of a project by a developer to the State Government, a Government agency or a specified Government agency later than thirty-five years from the date of agreement.

(4) (a) The State Government may, by notification in the *Official Gazette*, add to Schedule II any other nature of agreement.

(b) All notifications issued under clause (a) shall be laid before the State Legislature as soon as may be, after they are issued.

5. (1) A proposal prepared by the State Government, a Government agency or a specified Government agency for participation by a person other than the State Government, a Government agency or a specified Government agency in financing, construction, maintenance and operation of the project, the cost of which exceeds such amount as may be prescribed, shall be submitted to the Board along with proposed concession agreement relating thereto and different amount of cost may be prescribed for different nature of project.

Recommen-  
dation by  
Board.

(2) The Board shall consider the proposal and the proposed concession agreement submitted to it under sub-section (1) and may either recommend with or without modifications or not recommend, or return the proposal and concession agreement for consideration of the State Government, the Government agency or, as the case may be, the specified Government agency.

6. The State Government, the Government agency or the Specified Government agency may provide to a person assistance in the following manner, namely:—

Assistance  
by State  
Government,  
Government  
agency or  
specified  
Government  
agency.

(a) participation in the equity of the project not exceeding forty-nine per cent. of the total equity;

(b) subsidy not exceeding fifteen per cent. of the cost of the project;

(c) senior or subordinate loans;

(d) guarantee by the State Government, the Government agency or the specified Government agency in respect of liability of a Government agency arising out of a concession agreement;

(e) opening and operation of escrow account;

(f) conferment of development rights in respect of any land;

(g) incentives by the State Government in the form of exemption from the payment of, or deferred payment of, any tax or fees levied by the State Government under any law; or

(h) in such other manner.

Procedure  
for  
concession  
agreement.

7. No concession agreement for undertaking a project shall be entered into with any person unless the procedure specified in sections 8 and 9 or, as the case may be, section 10, has been followed.

Selection of a  
person.

8. (1) A concession agreement for undertaking a project may be entered into with a person who is selected through a competitive public bidding as provided in section 9 or by direct negotiation as provided in section 10.

(2) The matters relating to competitive public bidding and direct negotiation shall be such as may be prescribed.

Selection of  
person by  
competitive  
public  
bidding.

9. (1) On the acceptance of the recommendation of the Board, the State Government, the Government agency or the specified Government agency shall select a developer for the project through the competitive public bidding in the manner provided hereunder :-

(a) A public notice inviting the persons to participate in competitive public bidding for undertaking the project-

(i) shall be published once in a week for two consecutive weeks in atleast three newspapers, two in general circulation and one in circulation in the area in which the project is to be undertaken, and

(ii) may be published by any means of mass communication.

(b) (i) Any person who intends to participate in the competitive public bidding to undertake the project in pursuance of clause (a) shall provide information with regard to his legal, technical, managerial and financial capacity to undertake the said project in such form alongwith such particulars as may be specified by the State Government, the Government agency or the specified Government agency.

(ii) The State Government, the Government agency or the specified Government agency shall examine the information and other particulars submitted by the person under sub- clause (i) and decide as to whether such person fulfills the criteria for pre-qualification as laid down by the State Government, the Government agency or, as the case may be, the specified Government agency.

(iii) A person who fulfills the criteria under sub-clause (ii) shall be the pre-qualified person.

(c) (i) Where after a person who is consortium is pre-qualified under clause(b) but before such person enters into a concession agreement with the State Government, the Government agency or, as the case may be, the specified Government agency, any constituent of the consortium disassociates from such consortium, then the State Government, the Government agency or, as the case may be, the specified Government agency shall call upon the consortium to include, within thirty days, such constituent in the consortium so that in the opinion of the State Government, the Government agency or, as the case may be, the specified Government agency, the consortium fulfills the criteria specified in sub-clause(ii) of clause(b).

(ii) Where the consortium fails to comply with the requirement specified in sub-clause(i), the consortium shall cease to be pre-qualified.

(d) All pre-qualified persons shall be permitted to submit their proposals to undertake the project in such form (containing technical and financial aspects) as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.

(2) On receipt of the proposals from the pre-qualified persons, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from technical aspect.

(3) If the proposals are in order from the technical aspect, the State Government, the Government agency or the specified Government agency shall evaluate the proposals from the financial aspect, having regard to different factors specified below in respect of different nature of the agreements specified in Schedule II:—

(a) In relation to the build own operate and transfer agreement and build operate and transfer agreement, any of the following factors shall be taken into consideration for the purpose of evaluation of the proposal, namely:—

- (i) lowest bid in terms of the present value of user fees, where period of concession is fixed;
- (ii) the highest revenue share to the State Government, the Government agency or the specified Government agency;
- (iii) a bid in terms of the shortest concession period, where the user fees is fixed;
- (iv) the lowest present value of the subsidy, where the period of concession is fixed.

(b) In relation to the build and transfer agreement or the build lease and transfer agreement, the lowest net present value of the amortization payment from the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(c) In relation to the lease management agreement, highest present value of the lease payment to the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(d) In relation to the management and service agreement, the lowest present value of the management fees to be paid by the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(e) In relation to any other nature of agreement, the State Government, the Government agency or the specified Government agency may consider such factors as may be recommended by the Board.

(4) Where—

(a) the proposals are evaluated under sub-section (3) from the financial aspect having regard to relevant factor specified in that sub-section and referred to in the proposals, and

(b) one of the proposals so evaluated satisfies the financial aspect having regard to the said factor,

the State Government, the Government agency or, as the case may be, the specified Government agency, may enter into a concession agreement with the person who has submitted the proposal referred to in clause (b).

(5) Where no proposal stands the scrutiny from the technical or financial aspect, the competitive bidding shall stand cancelled.

(6) Nothing in sub-section (5) shall prohibit the State Government, the Government agency or, as the case may be, the specified Government agency from inviting persons to participate in competitive public bidding in respect of the proposal cancelled under that sub-section after, if necessary, revising the same.

Selection by  
direct  
negotiation.

10. (1) Where,—

(i) a proposal for participation by a person for undertaking the project and the proposed concession agreement have not been prepared by the State Government, the Government agency or the specified Government agency for being submitted to the Board under sub-section (1) of section 5, and

(ii) the undertaking of the project does not require financial assistance in the form of subsidy from the State Government, the Government agency or the specified Government agency;

the State Government, the Government agency or, as the case may be, the specified Government agency may scrutinise the proposal and the proposed concession agreement submitted to it by any person from technical and financial aspect.

(2) Where on scrutiny of the proposal and proposed concession agreement under sub-section (1) they are found to be in order, the State Government, the Government agency or, as the case may be, the specified Government agency shall adopt the proposal, with or without modifications, as the basis for selecting a person with whom concession agreement for undertaking the project may be entered into and, for selecting such person, the State Government, the Government agency or, as the case may be, the specified Government agency shall follow the procedure of competitive bidding specified in section 9.

(3) Where a person is selected by following the procedure of the competitive public bidding (hereinafter referred to as "the selected person"), the proposal of the selected person shall be compared with the proposal which is earlier submitted by a person to the State Government, the Government agency or, as the case may be, the specified Government agency under sub-section (1) (hereinafter referred to as "the earlier proposer").

(4) Where the proposal of the earlier proposer is not preferable to the proposal of the selected person, the earlier proposer shall be given an opportunity to make his proposal competitive with that of the selected person within a period of thirty days from the date on which he has been given an opportunity and where the earlier proposer fails to do so within the said period, the State Government, the Government agency or, as the case may be, the specified Government agency shall enter into a contract with the selected person.

(5) (a) Where a concession agreement has not been entered into with the earlier proposer, the cost of preparation of the proposal and the concession agreement incurred by him shall be reimbursed by the State Government, the Government agency or, as the case may be, the specified Government agency and on such reimbursement, the proposal and the concession agreement relating to it shall be



the property of the State Government, the Government agency or, as the case may be, the specified Government agency.

(b) The cost of preparation of the proposal and the concession agreement shall be determined in such manner as may be prescribed.

11. (1) Where, in pursuance of a concession agreement with the State Government, the Government agency or the specified Government agency,—

Fees to be charged for goods and services.

(a) the developer has constructed a project for providing goods or services; and

(b) the project vests in the developer for a period specified in the agreement and on expiry of such period, the project is to vest in the State Government, the Government agency or, as the case may be, the specified Government agency, the developer may charge such fees for providing goods or services by the project as specified in the agreement, so long as the project continues to vest in him.

(2) A concession agreement may provide that a developer may revise the fees referred to in sub-section(1) in such manner and having regard to the rate of inflation, variation in the rate of the foreign exchange and such other factors, as may be prescribed.

12. Where a provision is made in a concession agreement requiring the developer to maintain the project constructed by him for a period specified in such agreement,—

Financial security for maintenance of project.

(a) there shall be opened an escrow account by the developer, the moneys out of which shall be expended for the maintenance of the project in accordance with provision made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency; or

(b) the developer shall execute a bond in the favour of the State Government, the Government agency or, as the case may be, the specified Government agency binding himself to make payment of such amount of money as specified in the bond to the State Government, the Government agency or, as the case may be, the specified Government agency, if he fails to maintain the project in accordance with the provisions made in the concession agreement or any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

13. (1) A developer shall provide at his expense, training to the employees of the State Government, the Government agency or, as the case may be, the specified Government agency in respect of maintenance or operation of the project in accordance with the provisions made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

Training to employees and transfer of certain rights.

(2) Where the project is transferred to the State Government, the Government agency or the specified Government agency according to the provisions of the concession agreement, all the rights of the developer in respect of the project shall stand transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.

14. (1) Where a concession agreement is terminated by the State Government, the Government agency or, as the case may be, the specified Government agency with the consent of the developer or in the absence of any default of the developer, the developer shall be entitled to such amount of compensation for such termination as specified in the concession agreement.

Termination of concession agreement.

(2) A concession agreement may provide that if a default specified therein is committed by the developer, the State Government, the Government agency or, as the case may be, the specified Government agency shall after giving to the developer an opportunity of being heard in such manner as may be prescribed, be entitled to terminate the concession agreement and—

(a) take over the project without repaying the amount invested by the developer in the equity and shall assume the liability of the developer towards loans taken by him in respect of the project; or

(b) enter into a concession agreement with another person who is recommended by the lenders, and approved by the State Government, the Government agency or, as the case may be, the specified Government agency, on the same terms and conditions as are mentioned in the concession agreement so terminated.

**Power to add to Schedule I.** 15. (1) The State Government may, by notification in the *Official Gazette*, add to Schedule I any other project which falls within the executive power of the State.

(2) All notifications issued under sub-section (1) shall be laid before the State Legislature as soon as may be, after they are issued.

### CHAPTER III

#### ESTABLISHMENT AND CONSTITUTION OF BOARD

**Establishment of Board.** 16. As soon as may be after the commencement of this Act, the State Government may, by notification in the *Official Gazette*, establish a Board to be called the Gujarat Infrastructure Development Board with effect from such date as may be specified in the notification.

**Head Quarter of Board.** 17. The Head Quarter of the Board shall be at Gandhinagar or at such other place as the State Government may, by notification in the *Official Gazette*, specify.

**Constitution of Board.** 18. The Board shall consist of Chairman, Vice-Chairman, Member - Secretary and such number of other members not exceeding fifteen, who shall be appointed by the State Government.

**Term of office of members.** 19. Every member shall hold office during the pleasure of the State Government.

**Filling up of casual vacancies.** 20. If any vacancy arises in the Board or any committee thereof by reason of death, resignation or otherwise, the same shall be filled by the State Government as soon as possible.

**Meetings of Board.** 21. The Board shall meet at such time and place and shall observe such rules of procedure in regard to transaction of business at its meeting (including the quorum at such meeting) as may be provided by regulations.

**Temporary association of persons with Board.** 22. The Board may associate with any person whose assistance or advice is required in performing any of its functions under the Act.

**Providing information to Board.** 23. The Board may obtain the information with regard to the progress of the project which is submitted to it under sub-section (1) of section 5 or which was undertaken as per the provisions of section 10 from the State Government, the Government agency or the specified Government agency.

**Constitution of committees.** 24. The Board may constitute an Executive Committee and such other committees consisting of such number of members, for performing such of its functions, as may be provided by regulations.

25. (1) The Board may appoint such officers and servants as it may consider necessary for the efficient discharge of its functions.

Officers and servants of Board.

(2) The remuneration, allowances and conditions of service of the officers and servants of the Board shall be such as may be determined by the regulations.

26. No act or proceeding of the Board or of any of its committees shall be invalid merely by reason of—

Acts and proceedings of Board presumed to be valid.

(a) any vacancy therein or any defect in the constitution thereof, or

(b) any irregularity in its procedure not affecting the merit of the case.

#### CHAPTER IV

#### FUNCTIONS OF BOARD

27. The functions of the Board shall be as follows, namely :—

Functions of Board.

(a) to promote participation of a person in financing, construction, maintenance and operation of any project irrespective of its cost;

(b) to advise the State Government, the Government agency or the specified Government agency on matters of policy in respect of participation referred to in clause (a);

(c) to lay down priorities of projects to be undertaken by the State Government, the Government agency or the specified Government agency;

(d) to consider the proposal for undertaking a project and the proposed concession agreement submitted to it and to recommend with or without modifications or not recommend or return the proposal and proposed concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency;

(e) to elicit information relating to National and International Financial Institutions and to ensure co-operation of such Institutions;

(f) to co-ordinate and monitor the projects undertaken in the State;

(g) to assist in developing concepts of projects by undertaking pre-feasibility and feasibility studies of the project;

(h) to undertake such project as may be entrusted to it by the State Government;

(i) such other functions as may be entrusted to it by the State Government.

1 of 1956.

#### CHAPTER V

#### FINANCE, ACCOUNT, AUDIT AND REPORT

28. (1) The Board shall have its own fund.

Fund of Board.

(2) All sums which may, from time to time, be paid to the Board by the State Government or by any body and the amount charged by the Board under section 31 shall be carried to the fund of the Board and all payments shall be made therefrom.

(3) The Board may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Board.

29. (1) The accounts of the Board shall be prepared and maintained in such form and in such manner as may be provided by regulations.

Accounts and audit.



(2) The Board shall cause to be prepared for each financial year an annual statement of accounts in such form as may be provided by regulations.

(3) The accounts of the Board shall be audited by the auditor duly qualified to act as an auditor of the Companies under section 226 of the Companies Act, 1956.

1 of  
1956.

(4) The auditor shall send a copy of the report together with audited copy of accounts to the Board which shall as soon as may be after the receipt of the audit report forward the same to the State Government.

(5) The State Government shall cause the audit report together with audited copy of accounts to be laid before the State Legislature as soon as may be after the receipt of the same under sub-section (4).

Annual  
report.

30. (1) The Board shall during each financial year prepare in such form and at such time as may be provided by regulations, an annual report giving a true and full account of its activities during the previous financial year and an account of the activities likely to be undertaken by it in current financial year and copies of such report shall be forwarded to the State Government.

(2) The State Government shall cause every such report to be laid before the State Legislature as soon as may be after the receipt of the audit report under sub-section (1).

## CHAPATER VI

### MISCELLANEOUS

Amount to  
be charged  
by Board.

31. The Board may charge such amount as may be determined by it for considering the proposal and the proposed concession agreement under sub-section(2) of section 5.

Members,  
officers and  
servants to  
be public  
servants.

32. All members and officers and servants of the Board shall, while acting or purporting to act in pursuance of the provisions of this Act or any rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of  
1860.

Protection of  
action taken  
in good faith.

33. No suit, prosecution or other legal proceeding shall lie against the Board or any member and officer or servant of the Board for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules and regulations made thereunder.

Power to  
make rules.

34. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the scheme for concession agreement under clause (b) of sub-section (1) of section 4;
- (b) the amount of cost of a project exceeding which a proposal shall be submitted to the Board under sub-section (1) of section 5; and different amounts of costs for different nature of projects;
- (c) the matters relating to competitive public bidding and direct negotiation under sub-section (2) of section 8;
- (d) the assessment of the cost of preparation of the proposal and the concession agreement under clause (b) of sub-section (5) of section 10;
- (e) the manner in which and the factors having regard to which, fees may be revised under sub-section (2) of section 11;



(f) the manner in which an opportunity of being heard shall be given to the developer under sub-section (2) of section 14;

(g) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

**35.** (1) The Board may make regulations not inconsistent with provisions of this Act and the rules made thereunder, for enabling it to discharge its functions under this Act. **Power to make regulations.**

(2) In particular and without prejudice to the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the time and the place of the meetings of the Board and rules of procedure to be observed by the Board in regard to transaction of business at its meeting, under section 21;

(b) constitution of committee, number of members thereof and the functions to be performed by committees under section 24;

(c) to determine the remuneration, allowances and conditions of service of officers and servants of the Board under sub-section (2) of section 25;

(d) the form and manner in which the accounts of the Board shall be prepared and maintained under sub-section (1) of section 29;

(e) the form in which the annual statement of accounts of the Board shall be prepared under sub-section (2) of section 29;

(f) the form in which and the time within which the annual report of the Board shall be prepared under sub-section (1) of section 30;

(g) any other matter which is, or may be, necessary to be prescribed for the efficient conduct of the affairs of the Board.

**36.** A concession agreement shall include an arbitration clause providing that— **Arbitration.**

(a) all parties to the agreement shall submit to arbitration all disputes which may arise between them out of the provisions of this agreement,

(b) the place of arbitration shall be at Ahmedabad or any other place in India agreed to by the parties, and

(c) the disputes referred to in clause (a) shall be decided in accordance with law for the time being in force in India.

**37.** Nothing contained in the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 shall apply to any arbitration arising out of the provisions of the concession agreement entered into by the State Government, the Government agency or the specified Government agency with a developer. **Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 not to apply.**

**38.** Nothing in this Act shall affect the validity of a concession agreement entered into by the State Government, the Government agency or the specified Government agency with a developer before the coming into force of this Act. **Savings.**

## SCHEDULE I

*(See clause (j) of section 2)*

## PROJECTS

1. Power Generation, Transmission and Distribution Systems.
2. Roads, Bridges and By-passes.
3. Ports (other than major ports) and Harbours thereof.
4. Urban Transportation.
5. Dams.
6. Water Storage, Water Supply and Sewerage System.
7. Irrigation.
8. Land Reclamation Projects.
9. Industrial Estates including Industrial Parks.
10. Tourism Projects.
11. Solid Waste Management.
12. Information Technology related Projects.
13. Education.
14. Health Facilities.
15. Public Markets.
16. Post-harvest Facilities.
17. Inland Waterways other than National Waterways.
18. Fisheries not beyond territorial waters.
19. Development of Minor Minerals.
20. Gas and Gas Works.

## SCHEDULE II

(See section 4)

## NATURE OF CONCESSION AGREEMENT

1. *Build Own Operate and Transfer Agreement* : An agreement whereby the developer undertakes to finance, construct, maintain and operate a project and whereby such project is to vest in the developer for a specified period. During the period of operation of the project by the developer, he may be permitted to charge user fees specified in an agreement. The developer is liable to transfer the project to the State Government, the Government agency or, as the case may be, the specified Government agency after the expiry of the period of operation.
2. *Build Own Operate and Maintain Agreement* : An agreement whereby a developer undertakes to finance, construct, operate and maintain a project and whereby such project is to vest in the developer for specified period. During the period of operation of the project, he may be permitted to charge user fees specified in the agreement.
3. *Build and Transfer Agreement* : An agreement whereby developer undertakes to finance and construct a project. After the completion of the project, the developer shall transfer the project to the State Government, the Government agency or, as the case may be, the specified Government agency. The developer shall be paid such amount as is fixed in amortization schedule specified in the agreement.
4. *Build Lease and Transfer Agreement* : An agreement whereby a developer undertakes to finance and construct the project. On completion of the project, the developer hands it over to the State Government, the Government agency or, as the case may be, the specified Government agency for operation under a lease agreement for period specified in the agreement after the expiry of which the project stands transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.
5. *Build Transfer and Operate Agreement* : An agreement whereby the developer undertakes to finance and construct the project. On completion of the project, the developer transfers the project to the State Government, the Government agency or, as the case may be, the specified Government agency which permits the developer to operate the project on its behalf for a period specified in the agreement.
6. *Lease Management Agreement* : An agreement whereby the State Government, the Government agency or the specified Government agency leases a project owned by the State Government, the Government agency or, as the case may be, the specified Government agency to the person who is permitted to operate and maintain the project for the period specified in the agreement and to charge user fees therefor.
7. *Management Agreement* : An agreement whereby the State Government, the Government agency or the specified Government agency entrusts the operation and management of a project to a person for the period specified in the agreement on payment of specified consideration. In such agreement the State Government, the Government agency or, as the case may be, the specified Government agency may charge the user fees and collect the same either itself or entrust the collection for

consideration to any person who shall after collecting the user fees pay the same to the State Government, the Government agency or, as the case may be, the specified Government agency.

8. *Rehabilitate Operate and Transfer agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain for the period specified in the agreement after the expiry of which the project shall be transferred to the State Government, the Government agency or, as the case may be, the specified Government agency. During the period of operation of the project by the developer, he may be permitted to charge user fees specified in the agreement.

9. *Rehabilitate Own Operate and Maintain Agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain. The person shall be permitted to charge user fees as specified in the agreement.

10. *Service Contract Agreement* : An agreement whereby a person undertakes to perform a service to the State Government, the Government agency or the specified Government agency for a specified period. The State Government, the Government agency or, as the case may be, the specified Government agency shall pay him an amount according to the agreed schedule.

11. *Supply Operate and Transfer Agreement* : An agreement whereby a person supplies to the State Government, the Government agency or the specified Government agency the equipments and machinery for a project and undertakes to operate the project for a period and consideration specified in the agreement. During the operation of the project, he shall undertake to train employees of the State Government, the Government agency or, as the case may be, the specified Government agency to operate the project.

12. *Joint Venture Agreement* : An agreement whereby the State Government, the Government agency or the specified Government agency enters into an agreement with a developer to jointly finance, construct, operate and maintain a project for a period specified in the agreement after the expiry of which the project shall be transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.



## STATEMENT OF OBJECTS AND REASONS

For rapid industrialisation, balanced development and improvement of quality of life of the people of the State, infrastructure facilities of higher quality and on a large scale are required to be provided. For that purpose, it is essential that beside the State Government and the Government agencies, private sector is also involved in substantial manner in providing infrastructure facilities in the State. For that purpose it is necessary to provide a frame work to the private sector participation in financing, construction, operation and maintenance of infrastructure projects in the State.

At present the Gujarat Infrastructure Development Board is constituted to promote participation of private sector in the development of infrastructure facilities in the State. It is considered necessary to replace the existing Board by a Statutory Board.

This Bill seeks to achieve the aforesaid objects.

The following notes on clauses explain the important provisions of the Bill.

*Clause 2.*— This clause defines certain terms used in the Bill.

*Clause 3.*— This clause provides for a person to participate in financing, construction, maintenance and operation of the project.

*Clause 4.*— This clause provides for a person to enter into concession agreement with the State Government, the Government agency or the specified Government agency. The Board may permit the combination of two or more agreements of the nature specified in Schedule II. It also provides that no concession agreement shall provide for transfer of project by developer to the State Government, Government agency or the specified Government agency later than thirty-five years from the date of agreement. It also confers power to the State Government to add to the Schedule II any other nature of agreement.

*Clause 5.*— This clause provides that any proposal for participation by person other than the State Government, the Government agency or the specified Government agency for the project, the cost of which exceeds such amount as may be prescribed, shall be submitted to the Board. It also empowers the Board to consider the proposal and make recommendation to the State Government, the Government agency or the specified Government agency with or without modification.

*Clause 6.*— This clause provides for manner of assistance by the State Government, the Government agency or the specified Government agency.

*Clause 7.*— This clause prohibits the entering into concession agreement unless the procedure specified in section 8, 9 or 10 has been followed.

*Clause 8.*— This clause provides that a concession agreement for undertaking a project may be entered with a person who is selected through competitive public bidding or by direct negotiation.

*Clause 9.*— This clause provides the manner for selecting developer for the project through the competitive public bidding.

*Clause 10.*— This clause provides for selection by direct negotiation in the cases where the proposal for participation by the State Government, the Government agency or the specified Government agency has not been prepared and the undertaking of the project does not require financial assistance from the State Government, the Government agency or the specified Government agency.

*Clause 11.*— This clause provides for charging the fees by developer for providing goods and services by the project.

*Clause 12.*— This clause provides for the security to be given by the developer in the case where there is a provision made in the concession agreement requiring the developer to maintain the project constructed by him by way of opening escrow account or by way of executing the bond in favour of the State Government, the Government agency or the specified Government agency.

*Clause 13.*— This clause provides for the training to be given to the employees of the State Government, the Government agency or the specified Government agency by the developer for maintenance and operation of the project. It also provides that the right of a developer in respect of the project shall stand transferred when the project is transferred to the State Government, the Government agency or the specified Government agency.

*Clause 14.*— This clause provides for the termination of the concession agreement by the State Government, the Government agency or the specified Government agency and the consequences thereof.

*Clause 15.*— This clause empowers the State Government to add any other project to Schedule I.

*Clauses 16, 17, 18, 19 and 20.*—These clauses provide for the establishment, constitution, place of office, terms of office of members of the Board and also provide for filling up the casual vacancies in the Board.

*Clause 21.*—This clause provides for the procedure for meeting of the Board.

*Clause 22.*—This clause empowers the Board to take assistance or advice of any person in performing any of its functions under this Act.

*Clause 23.*—This clause empowers the Board to obtain information regarding progress of the project.

*Clause 24.*—This clause empowers the Board to constitute executive committee and other committees.

*Clause 25.*—This clause provides for appointment of officers and servants of the Board.

*Clause 26.*—This clause provides that the act or proceedings of the Board or of its committee shall not be invalid on account of defect in the constitution or irregularity in the procedure.

*Clause 27.*—This clause provides for the functions of the Board.

*Clause 28.*—This clause provides for the fund of the Board.

*Clause 29.*—This clause provides for the manner for maintaining the accounts of the Board and audit thereto.

*Clause 30.*—This clause provides for preparation of annual report by the Board and laying the same before the State Legislature.

*Clause 31.*—This clause empowers the Board to charge the amount for considering the proposal and the proposed concession agreement.

*Clause 32.*—This clause provides that members, officers and servants of the Board shall be public servants.

*Clause 33.*—This clause provides for usual indemnity for acts done in good faith.

*Clause 34.*— This clause empowers the State Government to make rules for carrying out the purposes of the Act.

*Clause 35.*— This clause empowers the Board to make regulations for enabling it to discharge its functions under the Act.

*Clause 36.*—This clause provides for inclusion of an arbitration clause in the concession agreement.

*Clause 37.*— This clause provides that the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 shall not apply to any arbitration arising under the provisions of the Act.

*Clause 38.*— This clause saves the concession agreement entered into by the State Government, the Government agency or the specified Government agency with a developer before coming into force of the Act.

SURESHCHANDRA MEHTA

### FINANCIAL MEMORANDUM

Clause 28 of the Bill enables the State Government to pay from time to time sums to the Board which are to be carried to the fund of the Board. In the budget for the year 1999-2000, an amount of twenty-five crores rupees has been provided for the existing Gujarat Infrastructure Development Board for its recurring and non-recurring expenditure. The said amount would be entrusted to the Board so constituted for meeting its recurring and non-recurring expenditure. In these circumstances, clause 28 of the Bill, when enacted, would not involve any additional expenditure from the Consolidated Fund of the State.

V-EX 17-5

SURESHCHANDRA MEHTA

**MEMORANDUM REGARDING DELEGATED LEGISLATION.**

This Bill involves delegation of legislative powers in the following respects:

*Clause 1.*— Sub-clause (3) of this clause empowers the State Government to appoint, by notification in the *Official Gazette*, the date on which the Act shall come into force.

*Clause 4.*— (i) Paragraph (b) of sub-clause (1) of this clause empowers the State Government to prescribe by rules the Scheme for the concession agreement.

(ii) Paragraph (a) of sub-clause (4) of this clause empowers the State Government to add by notification, in the *Official Gazette*, any entry in Schedule II to the Act.

*Clause 5.*— Sub-clause (1) of this clause empowers the State Government to prescribe by rules the amount of cost of project exceeding which proposal shall be submitted to the Board and to prescribe different amount of costs for different nature of project.

*Clause 8.*— Sub-clause (2) of this clause empowers the State Government to prescribe by rules the matters relating to competitive public bidding, and direct negotiation.

*Clause 10.*— Paragraph (b) of sub-clause (5) of this clause empowers the State Government to prescribe by rules the cost of preparation of the proposal and the concession agreement.

*Clause 11.*— Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which and the factors having regard to which fees may be revised.

*Clause 14.*— Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which an opportunity of being heard is to be given to the developer before terminating the concession agreement.

*Clause 15.*— Sub-clause (1) of this clause empowers the State Government to add, by notification in the *Official Gazette*, any entry in Schedule I to the Act.

*Clause 16.*— This clause empowers the State Government to specify, by notification in the *Official Gazette*, the date on which the Gujarat Infrastructure Development Board shall be established.

*Clause 17.*— This clause empowers the State Government, to specify, by notification in the *Official Gazette*, any other place as Head-Quarter of the Board.

*Clause 21.*— This clause empowers the Board to provide by regulations the time at which and the place at which the Board shall meet and to provide by regulations the rules of procedure which the Board shall observe in regard to transaction of business at its meeting.



*Clause 24.*— This clause empowers the Board to provide by regulations to constitute other committees, number of members of such committee and the functions of the Board to be performed by such committee.

*Clause 25.*— Sub-clause (2) of this clause empowers the Board to determine by regulations the remuneration, allowances and conditions of service of the officers and servants of the Board.

*Clause 29.*— (i) Sub-clause (1) of this clause empowers the Board to prescribe by regulations the form and manner in which the accounts of the Board shall be prepared and maintained.

(ii) Sub-clause (2) of this clause empowers the Board to prescribe by regulations the form in which the annual statement of accounts of the Board shall be prepared.

*Clause 30.*— Sub-clause (1) of this clause empowers the Board to prescribe by regulations the form in which and time at which an annual report shall be prepared by the Board.

*Clause 34.*— Sub-clause (1) of this clause empowers the State Government to make rules for carrying out the purposes of the Act and sub-clause (2) empowers the State Government to make rules for all or any of the matters specified therein.

*Clause 35.*— Sub-clause (1) of this clause empowers the Board to make regulations enabling it to discharge its functions and sub-clause (2) empowers the Board to make regulations for all or any of the matters specified therein.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 30th March, 1999.

SURESHCHANDRA MEHTA.

By order and in the name of the Governor of Gujarat,

**KUM. H. K. JHAVERI,**

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 30th March, 1999.



# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

WEDNESDAY, SEPTEMBER 15, 1999/BHADRA 24, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

### THE GUJARAT INFRASTRUCTURE DEVELOPMENT BILL, 1999.

GUJARAT BILL NO. 18 OF 1999.

#### A BILL

*to provide for a framework for participation by persons other than the State Government and Government agencies in financing, construction, maintenance and operation of infrastructure projects and for that purpose to establish a Board and to provide for the matters connected therewith.*

It is hereby enacted in the Fiftieth Year of the Republic of India, as follows :-

#### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Gujarat Infrastructure Development Act, 1999.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall be deemed to have come into force on the 28th April, 1999.

Short title, extent and commencement.

**Definitions.**

2.

In this Act, unless the context otherwise requires,—

(a) "Board" means the Gujarat Infrastructure Development Board established under section 17;

(b) "concession agreement" means a contract of the nature specified in Schedule II between a developer and the State Government, a Government agency or a specified Government agency, relating to a project;

(c) "developer" means a person with whom concession agreement is entered into by the State Government, a Government agency or a specified Government agency;

(d) "escrow account" means a bank account in which cash is deposited or from which cash is withdrawn in such manner as specified in the concession agreement;

(e) "Government agency" means a Corporation or a body owned or controlled by the State Government or an authority established by or under any law and includes a local authority;

(f) "infrastructure" means facilities and services provided by a project;

(g) "local authority" means a municipal corporation, nagar panchayat, municipal council, notified area committee, district panchayat, taluka panchayat, village panchayat or such other body;

(h) "member" means a member of the Board including Chairman, Vice-Chairman and Member - secretary;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "project" means a project specified in Schedule I;

(k) "regulations" means regulations made under section 38;

(l) "rules" means rules made under section 37;

(m) "senior loan" means a loan in respect of which a claim on assets is prior to the claim on the assets in respect of other loan and which is specified as such in an agreement providing finance;

(n) "specified Government agency" means an agency consisting of the State Government and a Government agency participating jointly;

(o) "State Government guarantee" means a guarantee given by the State Government to a developer consistent with the provisions of the Gujarat State Guarantees Act, 1963;

Guj. XXII  
of 1963.

(p) "subordinate loan" means a loan in respect of which a claim on assets is subsequent to the claim on the assets in respect of another loan and which is specified as such in an agreement providing finance;

(q) "subsidy" means financial assistance in cash or kind provided by the State Government, a Government agency or a specified Government agency;

(r) "user charges" means the amount charged under section 11.

## CHAPTER II

### INFRASTRUCTURE PROJECTS

3. Any person may participate in financing, construction, maintenance and operation of a project. Participation in project.
4. (1) (a) A person may enter into a concession agreement of the nature specified in Schedule II with the State Government, a Government agency or a specified Government agency. Concession agreement.
- (b) The scheme for a concession agreement shall be such as may be prescribed.
- (2) Where the Board, having regard to the nature of a project, is satisfied that it is necessary so to do, it may permit combination of two or more agreements of the nature specified in Schedule II into one agreement.
- (3) No concession agreement shall provide for transfer of a project by a developer to the State Government, a Government agency or a specified Government agency later than thirty-five years from the date of agreement.
- (4) (a) The State Government may, by notification in the *Official Gazette*, add to Schedule II any other nature of agreement and thereupon the nature of agreement so added shall be deemed to be a nature of agreement specified in Schedule II for the purposes of this Act.
- (b) Every notification issued under clause (a) shall be laid before the State Legislature as soon as may be after it is issued.
5. (1) A proposal prepared by the State Government, a Government agency or a specified Government agency for participation by a person other than the State Government, a Government agency or a specified Government agency in financing, construction, maintenance and operation of the project, the cost of which exceeds such amount as may be prescribed, shall be submitted to the Board along with proposed concession agreement relating thereto for its consideration and different amounts of cost may be prescribed for different nature of projects. Recommendation by Board.
- (2) The Board shall consider the proposal and the proposed concession agreement submitted to it under sub-section (1) or sub-section (1) of section 10 and may either recommend with or without modifications or not recommend, or return the proposal and concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency.
6. The State Government, a Government agency or a specified Government agency may provide to a person assistance in the following manner, namely:— Assistance by State Government, Government agency or specified Government agency.
- (a) participation in the equity of the project not exceeding forty-nine per cent. of the total equity;
- (b) subsidy not exceeding fifteen per cent. of the cost of the project;
- (c) senior or subordinate loans;
- (d) guarantee by the State Government, a Government agency or a specified Government agency in respect of liability of a Government agency arising out of a concession agreement;
- (e) opening and operation of escrow account;
- (f) conferment of a right to develop any land;
- (g) incentives by the State Government in the form of exemption from payment of, or deferred payment of, any tax or fees levied by the State Government under any law; or
- (h) in any other manner as deemed fit.
7. No concession agreement for undertaking a project shall be entered into with any person unless the procedure specified in sections 8 and 9 or, as the case may be, sections 8 and 10 has been followed. Procedure for concession agreement.



Selection of person.

8. (1) A concession agreement for undertaking a project may be entered into with a person who is selected through a competitive public bidding as provided in section 9 or by direct negotiation as provided in section 10.

(2) The matters relating to competitive bidding and direct negotiation shall be such as may be prescribed.

Selection of person by competitive public bidding.

9. (1) On the acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as case may be, the specified Government agency shall select a developer for the project through the competitive public bidding in the manner provided hereunder.

(a) A public notice inviting persons to participate in competitive public bidding for undertaking the project—

(i) shall be published once in a week for two consecutive weeks in atleast three newspapers, two in general circulation and one in circulation in the area in which the project is to be undertaken, and

(ii) may be published by any other means of mass communication.

(b) (i) Any person who intends to participate in the competitive public bidding to undertake the project in pursuance of a public notice published under clause (a) shall provide information with regard to his legal, technical, managerial and financial capacity to undertake the said project in such form alongwith such particulars as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.

(ii) The State Government, the Government agency or, as the case may be, the specified Government agency shall examine the information and other particulars submitted by the person under sub-clause (i) and decide as to whether such person fulfills the criteria for pre-qualification as laid down by the State Government, the Government agency or, as the case may be, the specified Government agency.

(iii) A person who fulfills the criteria as laid down under sub-clause (ii) shall be the pre-qualified person.

(c) (i) Where after a person who is a consortium is pre-qualified under clause (b) but before such person enters into a concession agreement with the State Government, the Government agency or, as the case may be, the specified Government agency, any constituent of the consortium disassociates from such consortium, then the State Government, the Government agency or, as the case may be, the specified Government agency shall call upon the consortium to include, within thirty days, such constituent in the consortium as specified by it so that, in the opinion of the State Government, the Government agency or, as the case may be, the specified Government agency, the consortium fulfills the criteria referred to in sub-clause (ii) of clause (b).

(ii) Where the consortium fails to comply with the requirement specified in sub-clause (i), the consortium shall cease to be the pre-qualified person.

(d) All pre-qualified persons shall be permitted to submit their proposals to undertake the project in such form (containing technical and financial aspects) as may be specified by the State Government, the Government agency or, as the case may be, the specified Government agency.

(2) On receipt of the proposals from the pre-qualified persons, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from technical aspect.

(3) If the proposals are in order from the technical aspect, the State Government, the Government agency or, as the case may be, the specified Government agency shall evaluate the proposals from the financial aspect, having regard to different factors specified below in respect of different nature of the agreements specified in Schedule II:—

(a) In relation to the build own operate and transfer agreement and the build operate and transfer agreement, any of the following factors shall be taken into consideration for the purpose of evaluation of the proposal, namely:—

- (i) lowest bid in terms of the present value of user charges, where period of concession is fixed;
- (ii) the highest revenue share to the State Government, the Government agency or the specified Government agency;
- (iii) a bid in terms of the shortest concession period, where the user charges is fixed;
- (iv) the lowest present value of the subsidy, where the period of concession is fixed.

(b) In relation to the build and transfer agreement and the build lease and transfer agreement, the lowest net present value of the amortization payment from the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(c) In relation to the lease management agreement, highest present value of the lease payment to the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(d) In relation to the management and service agreement, the lowest present value of the management fees to be paid by the State Government, the Government agency or the specified Government agency shall be taken into consideration.

(e) In relation to any other nature of agreement, the State Government, the Government agency or the specified Government agency may consider such factors as may be recommended by the Board.

(4) Where—

(a) the proposals are evaluated under sub-section (3) from the financial aspect having regard to a relevant factor specified in that sub-section and referred to in the proposals, and

(b) one of the proposals so evaluated satisfies the financial aspect having regard to the relevant factor,

the State Government, the Government agency or, as the case may be, the specified Government agency, may enter into a concession agreement with the person who has submitted the proposal referred to in clause (d) of sub-section (1).

(5) Where no proposal stands the scrutiny from the technical or financial aspect, the competitive bidding shall stand cancelled.

(6) Nothing in sub-section (5) shall prohibit the State Government, the Government agency or, as the case may be, the specified Government agency from inviting persons to participate in competitive public bidding in respect of the proposal which stands cancelled under that sub-section after, if necessary, revising the same.

10. (1) Where—

(i) a proposal for participation by a person for undertaking a project and a proposed concession agreement have not been prepared by the State Government, a Government agency or a specified Government agency for being submitted to the Board under sub-section (1) of section 5, and

(ii) a proposal for undertaking a project and a proposed concession agreement prepared by a person are submitted to the State Government, a Government agency or a specified Government agency;

the State Government, the Government agency or, as the case may be, the specified Government agency may—

(a) consider the proposal and the proposed concession agreement from all aspects (including technical and financial) and if necessary, modify the same in consultation

Selection by  
direct  
negotiation.

with the person who has submitted the proposal and the proposed concession agreement; and

(b) submit the proposal and the proposed concession agreement to the Board, if—

(i) the cost of the project exceeds the limit prescribed under sub-section (1) of section 5, and

(ii) the undertaking of the project does not require financial assistance in the form of subsidy from the State Government, the Government agency or the specified Government Agency.

(2) On acceptance of the recommendation of the Board made under sub-section (2) of section 5, the State Government, the Government agency or, as the case may be, the specified Government agency shall adopt the proposal as the basis for selecting a person with whom concession agreement for undertaking the project may be entered into, and for selecting such person, the State Government, the Government agency or, as the case may be, the specified Government agency shall follow the procedure of competitive public bidding specified in section 9.

(3) Where a person is selected by following the procedure of the competitive public bidding (hereinafter referred to as "the selected person"), the proposal of the selected person shall be compared with the proposal which is earlier submitted by a person to the State Government, the Government agency or, as the case may be, the specified Government agency under sub-section (1) (hereinafter referred to as "the earlier proposer").

(4) Where the proposal of the earlier proposer is not preferable to the proposal of the selected person, the earlier proposer shall be given an opportunity to make his proposal competitive with that of the selected person within a period of thirty days from the date on which he has been given the opportunity and where the earlier proposer fails to do so within the said period, the State Government, the Government agency or, as the case may be, the specified Government agency may enter into a contract with the selected person.

(5) (a) Where a concession agreement has not been entered into with the earlier proposer, the cost of preparation of the proposal and the concession agreement incurred by him shall be reimbursed by the State Government, the Government agency or, as the case may be, the specified Government agency and on such reimbursement, the proposal and the concession agreement submitted by the earlier proposer shall be the property of the State Government, the Government agency or, as the case may be, the specified Government agency.

(b) The cost of preparation of the proposal and the concession agreement shall be determined in such manner as may be prescribed.

Amount to be charged for providing goods and services.

11. (1) Where, in pursuance of a concession agreement with the State Government, the Government agency or, as the case may be, the specified Government agency,—

(a) (i) the developer has constructed a project for providing goods or services; and  
(ii) the project vests in the developer for a period specified in the concession agreement; and

(iii) on expiry of such period, the project is to vest in the State Government, the Government agency or, the specified Government agency.

the developer may charge such amount as specified in the agreement for providing goods or services by the project so long as the project continues to vest in him, or

(b) an existing project is vested to a person to renovate, operate and maintain, the developer may charge such amount as specified in the agreement for providing goods or services by the project so long as the project continues to vest in him.

(2) A concession agreement may provide that a developer may, having regard to the rate of inflation, variation in the rate of the foreign exchange and such other factors, as may be prescribed, revise the amount of charges referred to in sub-section (1) in such manner, as may be prescribed.



12. Where a provision is made in a concession agreement requiring the developer to maintain the project constructed by him for a period specified in such agreement,—

Financial security for maintenance of project.

(a) there shall be opened an escrow account by the developer, the money out of which shall be expended for the maintenance of the project in accordance with the provisions made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency; or

(b) the developer shall execute a bond in the favour of the State Government, the Government agency or, as the case may be, the specified Government agency binding himself to make payment of such amount of money as specified in the bond to the State Government, the Government agency or, as the case may be, the specified Government agency, in case he fails to maintain the project in accordance with the provisions made in the concession agreement or any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

13. A developer shall provide at his expense, training to the employees of the State Government, the Government agency or, as the case may be, the specified Government agency in respect of maintenance or operation of the project in accordance with the provisions made in the concession agreement or in any other agreement with the State Government, the Government agency or, as the case may be, the specified Government agency.

Training to employees.

14. Where the project is transferred to the State Government, the Government agency or the specified Government agency according to the provisions of the concession agreement, all the rights of the developer in respect of the project shall stand transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.

Transfer of certain rights.

15. (1) Where a concession agreement is terminated by the State Government, the Government agency or, as the case may be, the specified Government agency with the consent of the developer or in absence of any default of the developer, the developer shall be entitled to such amount of compensation for such termination as specified in the concession agreement.

Termination of concession agreement.

(2) A concession agreement may provide that if a default specified therein is committed by the developer, the State Government, the Government agency or, as the case may be, the specified Government agency shall, after giving to the developer an opportunity of being heard in such manner as may be prescribed, be entitled to terminate the concession agreement and—

(a) take over the project without repaying the amount invested by the developer in the equity and shall assume the liability of the developer towards loans taken by him in respect of the project; or

(b) enter into a concession agreement with another person whose name is recommended by the lenders of the developer and approved by the State Government, the Government agency or, as the case may be, the specified Government agency, on the same terms and conditions as are specified in the concession agreement so terminated.

16. (1) The State Government may, by notification in the *Official Gazette*, add to Schedule I any other project which falls within the executive power of the State and thereupon the project so added shall be deemed to be a project specified in Schedule I for the purposes of this Act.

Power to add to Schedule I.

(2) Every notification issued under sub-section (1) shall be laid before the State Legislature as soon as may be after it is issued.



## CHAPTER III

## ESTABLISHMENT AND CONSTITUTION OF BOARD.

- Establishment of Board.** 17. As soon as may be after the commencement of this Act, the State Government may, by notification in the *Official Gazette*, establish a Board to be called the Gujarat Infrastructure Development Board with effect from such date as may be specified in the notification.
- Head quarters of Board.** 18. The head quarters of the Board shall be at Gandhinagar or at such other place as the State Government may, by notification in the *Official Gazette*, specify.
- Constitution of Board.** 19. The Board shall consist of Chairman, Vice-Chairman, Member-secretary appointed by the State Government and such number of other members not exceeding fifteen, who shall be appointed by the State Government.
- Term of office of members.** 20. Every member shall hold office during the pleasure of the State Government.
- Filling up casual vacancies.** 21. If any vacancy arises in the Board or any committee thereof by reason of death, resignation or otherwise, the same shall be filled up by the State Government as soon as possible.
- Meetings of Board.** 22. The Board shall meet at such time and place and shall observe such rules of procedure in regard to transaction of its business at its meeting (including the quorum at such meeting) as may be provided by regulations.
- Temporary association of persons with Board.** 23. The Board may associate with itself any person whose assistance or advice is required in performing any of its functions under this Act.
- Providing information to Board.** 24. The Board may obtain the information with regard to the progress of the project which was submitted to it under sub-section (1) of section 5 or which was undertaken as per the provisions of section 10 from the State Government, a Government agency or a specified Government agency.
- Constitution of committees.** 25. The Board may constitute an Executive Committee and such other committees consisting of such number of members, for performing such of its functions, as may be provided by regulations.
- Officers and servants of Board.** 26. (1) The Board may appoint such officers and servants as it may consider necessary for the efficient discharge of its functions.  
(2) The remuneration, allowances and conditions of service of the officers and servants of the Board shall be such as may be provided by the regulations.
- Acts and proceedings of Board presumed to be valid.** 27. No act or proceeding of the Board or of any of its committees shall be invalid merely by reason of—  
(a) any vacancy therein or any defect in the constitution thereof, or  
(b) any irregularity in its procedure not affecting the merit of the case.

## CHAPTER IV

## FUNCTIONS OF BOARD.

28. The functions of the Board shall be as follows, namely :—

- (a) to promote participation of a person in financing, construction, maintenance and operation of any project irrespective of its cost;
- (b) to advise the State Government, a Government agency or a specified Government agency on matters of policy in respect of participation referred to in clause (a);
- (c) to lay down priorities of projects to be undertaken by the State Government, a Government agency or a specified Government agency ;
- (d) to consider the proposal for undertaking a project and the proposed concession agreement submitted to it and to recommend with or without modifications or not recommend or return the proposal and proposed concession agreement for reconsideration of the State Government, the Government agency or, as the case may be, the specified Government agency ;
- (e) to elicit information relating to National and International Financial Institutions and to ensure co-operation of such Institutions;
- (f) to co-ordinate and monitor the projects undertaken in the State;
- (g) to assist in developing concepts of projects by undertaking pre-feasibility and feasibility studies of the project;
- (h) to undertake such project as may be entrusted to it by the State Government;
- (i) to perform such other functions as may be entrusted to it by the State Government.

Functions of Board.

## CHAPTER V

## FINANCE, ACCOUNTS, AUDIT AND ANNUAL REPORT.

29. (1) The Board shall have its own fund.

(2) All sums which may, from time to time, be paid to the Board by the State Government or by any body and the amount charged by the Board under section 32 shall be carried to the fund of the Board and all payments shall be made therefrom.

(3) The Board may spend such sums as it thinks fit for the performance of its functions under this Act, and such sums shall be treated as expenditure payable out of the fund of the Board.

30. (1) The accounts of the Board shall be prepared and maintained in such form and in such manner as may be provided by regulations.

(2) The Board shall cause to be prepared for each financial year an annual statement of accounts in such form as may be provided by regulations.

(3) The accounts of the Board shall be audited by an auditor duly qualified to act as an auditor of the companies under section 226 of the Companies Act, 1956.

(4) The auditor shall send a copy of the report together with an audited copy of accounts to the Board which shall as soon as may be after the receipt of the audit report forward the same to the State Government.

(5) The State Government shall cause the audit report together with audited copy of accounts to be laid before the State Legislature as soon as may be after the receipt of the same under sub-section (4).

31. (1) The Board shall during each financial year prepare in such form and at such time as may be provided by regulations, an annual report giving a true and full account of its activities during the previous financial year and an account of the activities likely to be undertaken by it in current financial year and copies of such report shall be forwarded to the State Government.

(2) The State Government shall cause every such report to be laid before the State Legislature as soon as may be after the receipt of the report under sub-section (1).

Fund of Board.

Accounts and audit.

Annual report.

I of 1956.

**CHAPTER VI**  
**MISCELLANEOUS.**

- Amount to be charged by Board.** 32. The Board may charge such amount as may be determined by it for considering the proposal and the proposed concession agreement under sub-section (2) of section 5.
- Members, officers and servants to be public servants.** 33. All members and officers and servants of the Board shall, while acting or purporting to act in pursuance of the provisions of this Act or any rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.
- Protection of action taken in good faith.** 34. No suit, prosecution or other legal proceeding shall lie against the Board or any member and officer or servant of the Board for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rules and regulation made thereunder.
- Arbitration.** 35. A concession agreement shall contain an arbitration clause providing that—  
 (a) all parties to the agreement shall submit to arbitration any dispute which may arise between them out of the provisions of the agreement,  
 (b) the place of arbitration shall be at Ahmedabad or any other place in India agreed to by the parties, and  
 (c) the dispute referred to in clause (a) shall be decided in accordance with the law for the time being in force in India.
- Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 not to apply.** 36. Nothing contained in the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 shall apply to any arbitration arising out of the provisions of the concession agreement entered into by the State Government, a Government agency or a specified Government agency with a developer. Guj. 4 of 1992.
- Power to make rules.** 37. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.  
 (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—  
 (a) the scheme for concession agreement under clause (b) of sub-section (1) of section 4;  
 (b) the amount of cost of a project exceeding which a proposal shall be submitted to the Board under sub-section (1) of section 5; and different amounts of costs for different nature of projects;  
 (c) the matters relating to competitive public bidding and direct negotiation under sub-section (2) of section 8;  
 (d) the manner in which the cost of preparation of the proposal and the concession agreement shall be determined under clause (b) of sub-section (5) of section 10;  
 (e) the other factors having regard to which charges may be revised and the manner in which they may be revised under sub-section (2) of section 11;  
 (f) the manner in which an opportunity of being heard shall be given to the developer under sub-section (2) of section 15;  
 (g) any other matter which is to be or may be prescribed.  
 (3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to

rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

38. (1) The Board may make regulations not inconsistent with provisions of this Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

Power to  
make  
regulations.

(2) In particular and without prejudice to the foregoing power, such regulations may provide for all or any of the following matters, namely :-

- (a) the time and the place at which the Board shall meet and rules of procedure the Board shall observe in regard to transaction of its business at its meeting under section 22;
- (b) the other committees which the Board may constitute, the number of members which the executive committee and other committees may consist of and the functions of the Board which they may perform under section 25;
- (c) the remuneration, allowances and conditions of service of officers and servants of the Board under sub-section (2) of section 26;
- (d) the form and manner in which the accounts of the Board shall be prepared and maintained under sub-section (1) of section 30;
- (e) the form in which an annual statement of accounts of the Board shall be prepared under sub-section (2) of section 30;
- (f) the form in which and the time at which an annual report of the Board shall be prepared under sub-section (1) of section 31;
- (g) any other matter which is, or may be necessary to be prescribed for the efficient conduct of the affairs of the Board.

39. (1) Nothing in this Act shall affect the validity of-

Savings.

(a) a concession agreement entered into by the State Government, a Government agency or a specified Government agency with any person before the date of the commencement of this Act (hereinafter referred to as "the said date");

(b) (i) a letter of intent or any other writing issued to a person before the said date entrusting to him a project for execution if a concession agreement is entered into with respect to the project in pursuance of the said letter of intent or the writing, by the State Government, a Government agency or a specified Government agency with such person within a period of one year from the said date or such further period as may be extended by the State Government,

(ii) a concession agreement entered into under sub-clause (i) notwithstanding that the procedure specified in sections 8 and 10 or, as the case may be, sections 9 and 10 is not followed before entering into such concession agreement.

Guj. Ord.  
1 of 1999.

40. (1) The Gujarat Infrastructure Development Ordinance, 1999 is hereby repealed.

Repeal and  
savings.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.



**SCHEDULE I**  
*(See clause (i) of section 2)*  
**PROJECTS**

1. Power Generation, Transmission and Distribution Systems.
2. Roads, Bridges and By-passes.
3. Ports (other than major ports) and Harbours thereof.
4. Urban Transportation.
5. Dams.
6. Water Storage, Water Supply and Sewerage System.
7. Irrigation.
8. Land Reclamation Projects.
9. Industrial Estates including Industrial Parks.
10. Tourism Projects.
11. Solid Waste Management.
12. Information Technology related Projects.
13. Education.
14. Health Facilities.
15. Public Markets.
16. Post-harvest Facilities.
17. Inland Waterways other than National Waterways.
18. Fisheries not beyond territorial waters.
19. Development of Minor Minerals.
20. Gas and Gas Works.

## SCHEDULE II

(See sub-section (1) of section 4)

## NATURE OF CONCESSION AGREEMENT

1. *Build Own Operate and Transfer Agreement* : An agreement whereby the developer undertakes to finance, construct, maintain and operate a project and whereby such project is to vest in the developer for a specified period. During the period of operation of the project by the developer, he may be permitted to charge user charges as specified in an agreement. The developer is required to transfer the project to the State Government, a Government agency or, as the case may be, a specified Government agency after the expiry of the period of operation.
2. *Build Own Operate and Maintain Agreement* : An agreement whereby a developer undertakes to finance, construct, operate and maintain a project and whereby such project is to vest in the developer for specified period. During the period of operation of the project, he may be permitted to charge user charges as specified in the agreement.
3. *Build and Transfer Agreement* : An agreement whereby a developer undertakes to finance and construct a project. After the completion of the project, the developer is required to transfer the project to the State Government, a Government agency or, as the case may be, a specified Government agency. The developer shall be paid such amount as is fixed in amortization schedule specified in the agreement.
4. *Build Lease and Transfer Agreement* : An agreement whereby a developer undertakes to finance and construct the project. On completion of the project, the developer hands it over to the State Government, a Government agency or, as the case may be, a specified Government agency for operation under a lease agreement for period specified in the agreement after the expiry of which the project stands transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.
5. *Build Transfer and Operate Agreement* : An agreement whereby the developer undertakes to finance and construct the project. On completion of the project, the developer transfers the project to the State Government, a Government agency or, as the case may be, a specified Government agency which permits the developer to operate the project on its behalf for a period specified in the agreement.
6. *Lease Management Agreement* : An agreement whereby the State Government, a Government agency or a specified Government agency leases a project owned by the State Government, the Government agency or, as the case may be, a specified Government agency to the person who is permitted to operate and maintain the project for the period specified in the agreement and to charge user charges therefor.
7. *Management Agreement* : An agreement whereby the State Government, a Government agency or a specified Government agency entrusts the operation and management of a project to a person for the period specified in the agreement on payment of specified consideration. In such agreement the State Government, the Government agency or, as the case may be, a specified Government agency may charge the user charges and collect the same either itself or entrust the collection for consideration to any person who shall after collecting the user charges pay the same to the State Government, a Government agency or as the case may be, a specified Government agency.
8. *Rehabilitate Operate and Transfer Agreement* : An agreement whereby an existing project is vested in a person to renovate, operate and maintain for the period specified in the agreement after the expiry of which the project is required to be transferred

to the State Government, a Government agency or, as the case may be, the specified Government agency. During the period of operation of the project by the developer, he may be permitted to charge user charges as specified in the agreement.

9. **Rehabilitate Own Operate and Maintain Agreement** : An agreement whereby an existing project is vested in a person to renovate, operate and maintain. The developer shall be permitted to charge user charges as specified in the agreement.

10. **Service Contract Agreement** : An agreement whereby a person undertakes to provide services to the State Government, a Government agency or, a specified Government agency for a specified period. The State Government, a Government agency or, as the case may be, a specified Government agency shall pay him an amount according to the agreed schedule.

11. **Supply Operate and Transfer Agreement** : An agreement whereby a person supplies to the State Government, a Government agency or a specified Government agency the equipments and machinery for a project and undertakes to operate the project for a period and consideration specified in the agreement. During the operation of the project, he shall undertake to train employees of the State Government, the Government agency or, as the case may be, the specified Government agency to operate the project.

12. **Joint Venture Agreement** : An agreement whereby the State Government, a Government agency or a specified Government agency enters into an agreement with a developer to jointly finance, construct, operate and maintain a project for a period specified in the agreement after the expiry of which the project is required to be transferred to the State Government, the Government agency or, as the case may be, the specified Government agency.



**STATEMENT OF OBJECTS AND REASONS**

For rapid industrialisation, balanced development and improvement of quality of life of the people of the State, infrastructure facilities of higher quality and on a large scale are required to be provided. For that purpose, it is essential that beside the State Government and the Government agencies, private sector is also involved in substantial manner in providing infrastructure facilities in the State. It was, therefore, considered necessary to provide a frame work for the private sector participation in financing, construction, operation and maintenance of infrastructure projects in the State.

The Gujarat Infrastructure Development Board was constituted to promote participation of private sector in the development of infrastructure facilities in the State. It was also considered necessary to replace the existing Board by a Statutory Board.

For this purpose, a Bill called the Gujarat Infrastructure Development Bill, 1999 (Gujarat Bill No. 17 of 1999) was published with a view to introducing it in the last session of the Gujarat Legislative Assembly but could not be taken up by the House for want of time. Therefore, as the Gujarat Legislative Assembly was not in session at that time, the Gujarat Infrastructure Development Ordinance, 1999 was promulgated to achieve the aforesaid objects.

This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain the important provisions of the Bill.

*Clause 3.*— This clause enables a person to participate in financing, construction, maintenance and operation of the project.

*Clause 4.*— This clause enables a person to enter into concession agreement with the State Government, a Government agency or a specified Government agency. The Board may permit the combination of two or more agreements of the nature specified in Schedule II. It also provides that no concession agreement shall provide for transfer of project by a developer to the State Government, a Government agency or a specified Government agency later than thirty-five years from the date of agreement. It also confers power to the State Government to add to the Schedule II any other nature of agreement.

*Clause 5.*— (i) Sub-clause (1) of this clause requires the State Government, a Government agency or a specified Government agency to submit a proposal prepared by it for participation by a person in financing, construction, maintenance and operation of a project, to the Board along with proposed concession agreement for consideration where the cost of project exceeds a prescribed amount.

(ii) Sub-clause (2) of this clause requires the Board to consider the proposal and to recommend with or without modification or not to recommend the proposal or to return the proposal for reconsideration to the State Government, the Government agency or, as the case may be, the specified Government agency.

*Clause 6.*— This clause enables the State Government, a Government agency, or a specified Government agency, to provide assistance to a person in the manner stated therein.

*Clause 7.*— This clause prohibits the entering into a concession agreement with a person unless the procedure specified in sections 8 and 9 or sections 8 and 10 has been followed.



*Clause 8.*— This clause requires a concession agreement to be entered into for undertaking a project with a person selected through competitive public bidding or by direct negotiation.

*Clause 9.*— This clause provides the manner for selecting developer for the project through the competitive public bidding.

*Clause 10.*— This clause provides for selection of a developer by direct negotiation.

*Clause 11.*— This clause enables a developer to charge the amount, in the circumstances stated therein, for providing goods and services by the project.

*Clause 12.*— This clause provides for financial security for maintenance of project.

*Clause 13.*— This clause requires a developer to provide at his expense the training to the employees of the State Government, the Government agency or the specified Government agency in maintenance and operation of the project.

*Clause 14.*— This clause provides for transfer of all the rights of a developer in respect of the project to the State Government, a Government agency or a specified Government agency when the project is transferred to the State Government or a Government agency or a specified Government agency.

*Clause 15.*— This clause provides for compensation to a developer for the termination of the concession agreement in the circumstances stated therein by the State Government, the Government agency or, as the case may be, the specified Government agency and the consequences thereof.

*Clause 16.*— This clause empowers the State Government to add any other project to Schedule I.

*Clauses 17, 18, 19, 20 and 21.*— These clauses provide for the establishment, constitution, headquarters of the Board, terms of office of members of the Board and for filling up the casual vacancies in the Board.

*Clause 26.*— This clause enables the Board to appoint officers and servants for performing its functions.

*Clause 28.*— This clause provides for the functions of the Board.

*Clause 29.*— This clause provides for the fund of the Board.

*Clause 30.*— This clause requires the preparation and maintenance of accounts of the Board in the prescribed form and manner, preparation for each financial year an annual statement of accounts in the prescribed form, auditing of accounts of the Board by a qualified auditor, and audit report with audited copy of accounts to be laid before the State Legislature.

*Clause 31.*— This clause requires preparation of an annual report by the Board in the prescribed form and at the prescribed time and laying the same before the State Legislature.

*Clause 32.*— This clause empowers the Board to charge amounts for considering the proposal and the proposed concession agreement.

*Clause 35.*— This clause provides for inclusion of an arbitration clause in the concession agreement.

*Clause 36.*— This clause provides for non application of the Gujarat Public Works Contracts Disputes Arbitration Tribunal Act, 1992 to any arbitration arising under the provisions of a concession agreement.

*Clause 37.*— This clause empowers the State Government to make rules for carrying out the purposes of the Act.

*Clause 38.*— This clause empowers the Board to make regulations for enabling it to discharge its functions under the Act.

*Clause 39.*— This clause saves the concession agreement entered into by the State Government, the Government agency or the specified Government agency with any person before coming into force of the Act.

SURESHCHANDRA MEHTA.

### FINANCIAL MEMORANDUM

Clause 29 of the Bill enables the State Government to pay from time to time sums to the Board which are to be carried to the fund of the Board. In the budget for the year 1999-2000, an amount of twenty-five crores rupees has been provided for the existing Gujarat Infrastructure Development Board for its recurring and non-recurring expenditure. The said amount would be entrusted to the Board to be constituted for meeting with its recurring and non-recurring expenditure. In these circumstances, clause 29 of the Bill, when enacted, and brought into operation would not involve any additional expenditure from the Consolidated Fund of the State.

SURESHCHANDRA MEHTA.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

This Bill involves delegation of legislative powers in the following respects:-

*Clause 4* — (i) Paragraph (b) of sub-clause (1) of this clause empowers the State Government to prescribe by rules the scheme of a concession agreement.

(ii) Paragraph (a) of sub-clause (4) of this clause empowers the State Government to add by notification, in the *Official Gazette*, any other nature of agreement to Schedule II.

*Clause 5* — Sub-clause (1) of this clause empowers the State Government to prescribe by rules the amount of cost of project exceeding which proposal shall be submitted to the Board and to prescribe different amounts of cost for different nature of projects.

*Clause 8* — Sub-clause (2) of this clause empowers the State Government to prescribe by rules the matters relating to competitive public bidding and direct negotiation.

*Clause 9* — (i) Paragraph (b) of sub-clause (1) of this clause empowers the State Government to specify the form in which the information with regard to his legal, technical, managerial and financial capacity to undertake the project and other particulars to be provided by the participant.

(ii) Paragraph (d) of sub-clause (1) of this clause empowers the State Government, the Government agency or, as the case may be, the specified Government agency to specify the form in which the proposals to undertake the project are required to be submitted by the pre-qualified persons.

*Clause 10* — Paragraph (b) of sub-clause (5) of this clause empowers the State Government to prescribe by rules the manner in which the cost of preparation of the proposal and the concession agreement shall be determined.

*Clause 11* — Sub-clause (2) of this clause empowers the State Government to prescribe by rules the other factors having regard to which charges may be revised and the manner in which they may be revised.

*Clause 15* — Sub-clause (2) of this clause empowers the State Government to prescribe by rules the manner in which an opportunity of being heard is to be given to the developer before terminating the concession agreement.

*Clause 16* — Sub-clause (1) of this clause empowers the State Government to add to Schedule I, by notification in the *Official Gazette*, any other project.

*Clause 17* — This clause empowers the State Government to establish by notification in the *Official Gazette*, the Gujarat Infrastructure Development Board and to specify in the notification, the date with effect from which the Board is established.

*Clause 18* — This clause empowers the State Government, to specify by notification in the *Official Gazette*, any other place as headquarters of the Board.

*Clause 22* — This clause empowers the Board to provide by regulations the time at which and the place at which the Board shall meet and the rules of procedure for transaction of its business at its meeting to be observed by the Board.

*Clause 25.*— This clause empowers the Board to provide by regulations constitution of other committees, number of members of executive committee and other committees and the functions of the Board to be performed by the executive and other committees.

*Clause 26.*— Sub-clause (2) of this clause empowers the Board to provide by regulations, the remuneration, allowances and conditions of service of the officers and servants of the Board.

*Clause 30.*— (i) Sub-clause (1) of this clause empowers the Board to provide by regulations the form and manner in which the accounts of the Board shall be prepared and maintained.

(ii) Sub-clause (2) of this clause empowers the Board to provide by regulations the form in which the annual statement of accounts of the Board shall be prepared.

*Clause 31.*— Sub-clause (1) of this clause empowers the Board to prescribe by regulations the form in which and time at which an annual report shall be prepared by the Board.

*Clause 37.*— Sub-clause (1) of this clause empowers the State Government to make rules for carrying out the purposes of the Act and sub-clause (2) empowers the State Government to make rules for all or any of the matters specified therein.

*Clause 38.*— Sub-clause (1) of this clause empowers the Board to make regulations for enabling it to discharge its functions and sub-clause (2) empowers the Board to make regulations for all or any of the matters specified therein.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

Dated the 13th September, 1999.

SURESHCHANDRA MEHTA.

By order and in the name of the Governor of Gujarat,

KUM. H. K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 15th September, 1999.





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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL] WEDNESDAY, SEPTEMBER 15, 1999/BHADRA 24, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

### PART - V

Bills introduced in the Gujarat Legislative Assembly.

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127 A of the Gujarat Legislative Assembly Rules :-

#### THE GUJARAT TAX ON SALE OF ELECTRICITY (AMENDMENT) BILL, 1999.

GUJARAT BILL NO. 19 OF 1999.

#### A BILL

*further to amend the Gujarat Tax on Sale of Electricity Act, 1985.*

It is hereby enacted in the Fiftieth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Gujarat Tax on Sale of Electricity (Amendment) Act, 1999.

Short title  
and commence-  
ment.

(2) It shall be deemed to have come into force on the 12th May, 1999.

Guj. 5 of  
1985.

2. In the Gujarat Tax on Sale of Electricity Act, 1985 (hereinafter referred to as "the principal Act"), in section 2,—

Amendment  
of section 2 of  
Guj. 5 of 1985.

LIV of 1948.

LIV of 1948.

(1) in clause (c), for the words, figures and brackets "supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948", the words, figures, letter and brackets "supplying energy, the Generating Company as defined in clause (4A) of section 2 of the Electricity (Supply) Act, 1948 and the State Electricity Board constituted under section 5 of that Act of 1948" shall be substituted;

(2) to clause (a), the following proviso shall be added, namely:—

"Provided that where a licensee, who has installed the generating set for his own use, supplies surplus electrical energy to any other undertaking (hereinafter referred to as "the receiving undertaking"), the amount payable by any other consumer for supply of such quantum of power to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located, shall be considered to be the amount of sale price received and receivable by the licensee who has installed the generating set irrespective of actual amount paid and payable to him."

Amendment  
of section 10 of  
Guj. 5 of 1985.

3. In the principal Act, in section 10, for the brackets, figures and words "(not exceeding 12% per annum)", the words "not exceeding twenty-four per cent. per annum," shall be substituted.

Repeal  
and  
savings.

4. (1) The Gujarat Tax on Sale of Electricity (Amendment) Ordinance, 1999 is hereby repealed.

Guj. Ord.  
2 of 1999.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

In view of the amendments made by the Parliament in the Electricity (Supply) Act, 1948 by Act No. 50 of 1991, the scope of the Generating Company is enlarged covering all the Companies registered under the Companies Act, 1956 and the Generating Company is allowed to sell electricity to any other person with the consent of the Government. Under the existing provisions of the Gujarat Tax on Sale of Electricity Act, 1985, the Generating Company is not included in the definition of the licensee. It was, therefore, considered necessary to amend clause (c) of section 2 of the Gujarat Act of 1985 so as to include Generating Company in the definition of 'licensee' and to make it liable to pay tax under the Act.

Under the existing provisions of the Act, the tax is levied and collected on the turnover of sales of electricity. The term "turnover of sales" is defined in clause (h) of section 2 of the Act to mean an aggregate amount of the sale price received and receivable by the licensee in respect of sale of electricity. In order to safeguard the revenue of the State, it was considered necessary to amend the said clause (h) so as to provide that licensee who has installed the generating set for his own use and supplies surplus electrical energy to any other undertaking shall be liable to pay tax on the amount payable by any other consumer for such supply to the licensee who is engaged in the business of supplying energy within the area where the receiving undertaking is located, considering such amount to be a sale price, irrespective of actual amount paid or payable to the licensee who has installed the generating set.

The existing section 10 provides for charging of interest at the rate not exceeding twelve per cent. for non-payment or delayed payment of tax. In order to make recovery of tax effectively and to make provision at par with other taxation laws, it was considered necessary to enhance the rate of interest from twelve per cent. to twenty four per cent.

As the Gujarat Legislative Assembly was not in session at that time, the Gujarat Tax on Sale of Electricity (Amendment) Ordinance, 1999 was promulgated to amend the said Act of 1985 to achieve the aforesaid objects. This Bill seeks to replace the said Ordinance by an Act of the State Legislature.

Gandhinagar,  
Dated the 15th September, 1999.

KAUSHIK PATEL.

By order and in the name of the Governor of Gujarat,

KUM. H.K. JHAVERI,  
Secretary to the Government of Gujarat,  
Legislative and Parliamentary Affairs Department.

Gandhinagar, dated the 15th September, 1999.



# The Gujarat Government Gazette EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL ]

THURSDAY, SEPTEMBER 30, 1999/ASVINA 8, 1921

Separate paging is given to this Part in order that it  
may be filed as a Separate Compilation.

## PART - V

**Bills introduced in the Gujarat Legislative Assembly.**

The following Bill which was introduced on the 30th September, 1999 by  
Shri Mahendra Mashroo is published under rule 127-A of the Gujarat  
Legislative Assembly Rules for general Information.

Gujarat Bill No. 20 of 1999.

### THE GUJARAT NON-BIODEGRADABLE GARBAGE (CONTROL) BILL, 1999.

#### A BILL

*to prevent throwing or depositing of non-biodegradable garbage in public drains, roads  
and places open to public view in the State of Gujarat and for matters connected therewith or  
incidental thereto.*

It is hereby enacted in the Fiftieth Year of the Republic of India, as follows :—

1. (1) This Act may be called the Gujarat Non-biodegradable Garbage (Control) Act, 1999.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Short title,  
extent and  
commencement.

2. In this Act, unless the context otherwise requires:—

Definitions.

(a) "bio-degradable garbage" means the garbage or waste material capable of being  
destroyed by the action of living beings;

(b) "building" means any shop, out-house, hut, house, shed or stable whether used for  
the purpose of human habitation or otherwise and whether of masonry, bricks, wood, mud,  
thatch, metal or any other material whatever, and includes a wall and a well;



(c) "house gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as or carrying a drain or affording access to the latrine, urinal, cesspool or other receptacle for fifth or other polluted matter, by persons employed in the cleaning thereof or in the removal or such matter therefrom;

(d) "local authority" means a Municipal Corporation, a Municipality, a Cantonment Board, a Housing Board, a Slum Clearance Board, an Urban Development Authority, a Notified Area Committee, a District Panchayat, a Taluka Panchayat or a Gram Panchayat constituted or continued, under any law for the time being in force;

(e) "market" includes any place where persons assemble for sale or purchase of meat, fish, fruits, vegetables, food or any other articles for use or consumption with or without the consent of the owner of such places notwithstanding that there may be no common regulation for the concourse of the buyer and the sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or by any other persons;

(f) "non-biodegradable garbage" means the waste garbage of material which is non-biodegradable and includes plastic poly thene, nylon and other plastic goods such as P.V.C. propylene and polystyrene which are not capable of being destroyed by an action of living being and are more specifically included in the Schedule to this act;

(g) "occupier" includes any person for the time being paying or liable to payment or any portion of rent of the building in respect of which the word is used, or compensation or premium on account of the occupation of such building and also a rent free tenant, but does not include a lodger, and the words 'occupy and occupation' do not refer to the lodger;

(h) "owner" means the person who receives the rent for the use of the land or building or would be entitled to do so if they were let. It also includes—

(i) an agent or trustee who receives such rent on behalf of the owner;

(ii) a receiver, executor or administrator or a manager appointed by any court of competent jurisdiction to have the charge, of or to exercise the right of the owner;

(iii) an agent or trustee who receives the rent of or is entrusted with or is concerned with any building devoted to religious or charitable purpose; and

(iv) a mortgage in possession;

(i) "place" means any land or building or part of a building and includes the garden, ground and out-houses, if any, pertaining to a building or part of a building;

(j) "place open to public view" includes any private place or building, monument, fence or balcony visible to a person being in, or passing along, any public place;

(k) "Prescribed" means prescribed by rules made under this Act;

(l) "Public Analyst" means the person appointed or recognised to be the Government Analyst, in relation to any environmental laboratory established or recognised in the State, under the provisions of the Environment (Protection) Act, 1986;

(m) "Public place" means any place which is open to use and enjoyment of the public whether it is actually used or enjoyed by the public or not and includes a road, street, Market, house-gully or way, whether a throughfare or not, and landing place to which public are granted access or have a right to resort or over which they have a right to pass; and

(n) "State Government" means the Government of the State of Gujarat.

Prohibition to  
throw garbage  
in public  
drains and  
sewage.

3. (1) No person, by himself or through another shall, knowingly or otherwise throw or cause to be thrown in any drain, ventilation shaft, pipe and fittings, connected with the private or public drainage works any non-biodegradable garbage or any biodegradable garbage in a non-biodegradable bag or container likely to—

(i) injure the drainage and sewage system;

(ii) interfere with the free flow or effect the treatment and disposal of drain and sewage contents; and

(iii) be dangerous or cause a nuisance or be prejudicial to public health.

(2) No person shall, knowingly or otherwise, place or permit to be placed, except in accordance with such procedure and after complying with such safeguards as may be prescribed, any biodegradable or non-biodegradable garbage in any public place or in a place open to public view, unless -

(a) the garbage is placed in garbage receptacle ; or

(b) the garbage is deposited in a location designated by a local authority having jurisdiction on an area for the disposal of the garbage.

4. It shall be the duty of the local authority or any officer authorised by it, to -

(a) place or provide place in proper and convenient situation public receptacles, depots or places for temporary deposit or collection of Non-biodegradable garbage ;

(b) provide separate dustbins for temporary desposit of non-biodegradable garbage other than those kept and maintained for deposit of biodegradable garbage ;

(c) provide for the removal of contents of receptacles, deposit and of the accumulation at all places provided or appointed by it under clause (a) of this section ; and

(d) arrange for recycling disposal of the non-biodegradable garbage collected under this Act.

Provision for placement of receptacle and places for deposit of non-biodegradable garbage.

5. It shall be the duty of the owners and occupiers of all lands and buildings-

(a) to collect or to cause to be collected from their respective land and buildings, the non-biodegradable garbage and to deposit, or cause it to be deposited, in public receptacles, deposite or places provided for temporary deposit or collection of the non-biodegradable garbage by the local authority in the area;

(b) To provide separate receptacles or dustbins, other than those kept and maintained for deposit of biodegradable garbage, of the type and in the manner prescribed by the local authority of its officers for collection therein of all the non-biodegradable waste from such land and building and to keep such receptacles dustbins in good condition and repair.

Duty of owners and occupiers to collect and deposit non-biodegradable garbage etc.

6. The local authority may, by notice in writing, require the owner or occupier or part-owner, or person claiming to be the owner or part owner of any land or building, which has become a place or unauthorised stocking or deposit of non-biodegradable garbage and is likely to cause a nuisance remove or clause it to be removed the said garbage so stocked or collected; and if in its opinion, such stocking or collection of non-biodegradable waste is likely to injure the drainage or sewage system or is likely to be dangerous to life and health, it shall forthwith take such steps at the cost of such persons as it may think necessary.

Power of local authority for removal of non-biodegradable garbage.

7. The State Government may :-

(a) undertake studies to determine the composition of biodegradable or non-biodegradable garbage :

(b) establish measures to conduct or support research or programme to encourage source reduction, re-use and recycling of waste;

(c) conduct or support studies to determine the social and economic feasibility of household and other solid waste separation schemes, including studies of the type and amount of recyclable materials in solid wastes.

(d) encourage local authorities in the State of Gujarat to provide readily accessible solid waste collection depots for residents who are not provided with regular garbage pick up;

(e) undertake and encourage local authorities and other persons to implement policies to recycle waste materials, to promote energy conservation and to purchase products made from recyclable materials;

(f) conduct and support research on waste management and recycling including information on recyclables;

(g) conduct or support research on waste management and recycling, for use in educating the public, local authorities, institutions and industry; and

Studies; research and support programme.

(b) impose requirements on manufacturers, distributors and other person who produce or handle commodities with respect to the type, size, packaging, labelling and composition of packaging that may or must be used and with respect to the disposal of packaging including standards for material degradability and recyclability.

**Penalties.**

8. (1) Whoever is guilty of any act or omission in contravention of any of the provisions of this Act, or of any rules, notification or order made, issued or given under this Act, shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to rupees five thousand, or with both.

(2) Whoever having been convicted of any offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

(3) Whoever in any manner aids, abets or is accessory to the commission of an offence under this Act shall on conviction be punished with imprisonment prescribed for the offence.

9. (1) If the person committing any offence punishable under this Act is a company, every person, at the time of the commission of the offence, was in charge of and responsible to the company for the conduct of the business or guilty of the offence shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(2) Notwithstanding any thing contained in sub-section (1) Where an offence under this Act has been committed by a Company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any gross negligence on the part of any Director, Manager, Secretary, or other officer of the Company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation* - For the purposes of this Section-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director" in relation to a firm means a partner in the firm.

**Offence to be tried summarily.**

10. All offences under this Act shall be tried in a Summary way by a Judicial Magistrate of the First Class and the provisions of Sections 262 to 265 (both inclusive) of the Code of Criminal Procedure 1973, shall as far as may be, apply to such trials.

**Compounding of offences.**

11. (1) Any offences punishable under this Act may, before the institution of the prosecution, be compounded by such officer as may be authorised by the State Government in this behalf, on payment for credit to the State Government of such sum as such officer may specify.

(2) Where any offence has been compounded under sub-section (1), no proceeding shall be taken against the offender, and the offender if in custody, shall be discharged.

**Direction by State Government.**

12. The local authority shall carry out such directions as may be issued to it from time, by the State Government for the efficient administration of this Act.

**Power to amend Schedule.**

13. (1) Where it is expedient to do so, the State Government may, in the public interest and in consultation with the public Analyst, by notification in the official Gazette, add to or omit from the Schedule any item of non-biodegradable waste and thereafter the Schedule shall be deemed to have been amended accordingly.

(2) Every notification under Sub-section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

**Power to delegate.**

14. The State Government may, by notification published in the official Gazette, direct that any power exercisable by it under this Act (Not including the power to make rules under section 17) may also be exercised, in such cases as may be specified in the order, by such officer or authority as may be specified therein.

Protection of  
action taken in  
good faith.

15. No suit, prosecution or other legal proceedings shall lie against the State Government or the local authority or any officers or other employees of the State Government or the local authority or any other person authorised by the State Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Other laws not  
affected.

16. The provisions of this Act are in addition to, and not in derogation of the provisions of any other law for the time being in force.

Power to  
make rules.

17. (1) The State Government may subject to the condition of previous publication in the official Gazette, make rules for the purpose of carrying out of the provisions of this Act.

(2) All rules made under this section shall be laid before the State Legislature for thirty days as soon as after they are made and shall be subject to such modifications or recessions as the State Government may make during the session in which they are so laid or the session immediately following.

(3) Any modification or recission so made by the State Legislature shall be published in the official Gazette and shall thereupon take effect accordingly.

Power to  
remove  
difficulties.

18. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.



## SCHEDULE

See Section 2 (f)

## NON BIODEGRADABLE GARBAGE

1. Polythylene
  2. Nylon
  3. P.V.C.
  4. Poly-propylene
  5. Poly-styrene.
-

## STATEMENT OF OBJECTS AND REASONS

At present, the use of plastic goods is pervading for the industrial and packaging purposes at large in the State. This results in huge waste garbage or material which is non-biodegradable which is not capable of being destroyed by an action of living being. The cows, cattles and other animals, in search of eatables eat such plastic bags and chemicalised waste, which is very injurious even to the health of these animals. The animals eating those non-biodegradable garbage suffer from various diseases and ultimately it results into the death of these innocent animals. Such non-biodegradable garbage is injurious and harmful to the environment, human being and the animal being also. Therefore, it is necessary to have an effective control for the disposal of the non-biodegradable garbage in the State by an Act of the State Legislature.

Hence, this Bill.

Gandhinagar,  
Dated the 23rd March, 1999.

MAHENDRA MASHROO,  
M.L.A.

**MEMORANDUM REGARDING DELEGATED LEGISLATION**

The Bill involves delegations of Legislative powers in the following respects, namely :-

- Clause 12.- This clause empowers the State Government to issue the directions to the local authorities from time to time for the efficient administration of this Act.
- Clause 13.- This clause empowers the State Government to amend the Schedule by publishing a notification in the Official Gazette.
- Clause 14.- This clause empowers the State Government to specify such officer or authority to exercise powers exercisable by it under this Act (excluding the power to make rules)
- Clause 17.- This clause empowers the State Government to make rules for the purposes of carrying out the provisions of this Act.
- Clause 18.- This clause empowers the State Government to do any thing by an order anything not inconsistent with such provisions which appears to it to be necessary for the purpose of removing the difficulty, if any difficulty arises in giving effect to the provision of the Act.

The delegation of the Legislative powers as aforesaid is necessary and is of normal character.

Gandhinagar.  
Dated the 23rd March, 1999.

MAHENDRA MASHROO  
M.L.A.

## FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for undertaking studies, research and support programme by the State Government in regard to the non-bio-degradable garbages. This bill if enacted and brought into operation would not incur expenditure from the Consolidated Fund of the State, as it is presumed and expected that such studies, research and support programmes will be undertaken or conducted by the existing Government personnel and machineries and therefore no additional expenditure will be incurred from the Consolidated Fund of the State.

Gandhinagar,  
Dated the 23rd March, 1999.

MAHENDRA MASHROO.  
M.L.A.

Gandhinagar,  
Dated the 30th September, 1999.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.

Government Central Press, Gandhinagar.





# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. XL I

THURSDAY, SEPTEMBER 30, 1999/ASVINA 8, 1921

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART - V

#### Bills introduced in the Gujarat Legislative Assembly.

The following Bill which was introduced on the 30th September, 1999 by Shri Pro. Mangalbhai Patel is published under rule 127-A of the Gujarat Legislative Assembly Rules for general information.

Gujarat Bill No 21 of 1999.

#### THE GUJARAT FREEDOM OF RELIGION BILL, 1999

##### A BILL

*to provide for prohibition of conversion from one religion to another by use of force or allurement or by fraudulent means and for matters incidental thereto.*

WHEREAS, it is necessary to provide protection to persons against forced conversion by fraudulent means.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :—

1.(1) This Act may be called the Gujarat Freedom of Religion Act, 1999.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force at once.

Short title,  
extent &  
Commence-  
ment.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) "allurement" means offer of any temptation in the form of gift, gratification either in cash or in kind or any material benefit.

(b) "conversion" means renouncing one religion and adopting the another.

(c) "force" shall include a show of force or a threat of divine displeasure or social ex-communication.

(d) "fraudulent means" shall include misrepresentation or any other fraudulent contrivance.

**Prohibition of forcible or fraudulent conversion.**

3. No person shall convert or attempt to convert, either directly or otherwise any person from one religion to another by use of force or by allurement or by any fraudulent means nor shall any person abet any such conversion.

**Punishment.**

4. Any person contravening the provisions of section 3, shall without prejudice to any civil liability, be punishable with imprisonment for a term which may extend to three years or with fine which may extend to Rupees Two Thousand or with both :

Provided that in case the offence is committed in respect of a minor or a woman, the penalty shall be double of the penalty provided in this section :

Provided further that in case the offence is committed in respect of Scheduled Caste or Scheduled Tribe, such offence shall tantamount to an atrocity on the Scheduled Castes or Scheduled Tribes and the punishment in such case shall not be less than 3 years imprisonment or fine up to Rs. 5000 or both :

Provided also that the cases under this Act shall be taken up for hearing on priority basis by special courts to be constituted by the State Government.

**Intimation and investigation of conversion.**

5. (1) It shall be the duty of the person performing ceremony of conversion and the persons directly or indirectly connected with the conversion to report all conversions to the Taluka Magistrate and non-compliance of the provisions of this section shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

(2) The State Government shall investigate and verify any or all cases of conversions and all persons connected shall have to co-operate and give information to the best of his knowledge and the contravance shall be punishable as per the provisions of sub-section(1) of this section.

**Offence to be cognizable**

6. An offence under the Act shall be cognizable and shall not be investigated by an officer below the rank of an Inspector of Police.

**Previous sanction**

7. No prosecution for an offence under this Act shall be initiated except by or with the previous sanction of the District Magistrate.

**Power to make rules**

8. The State Government may, by notification in *Official Gazette*, make rules for carrying out the purposes of this Act.

**STATEMENT OF OBJECTS AND REASONS**

Conversion in its essence involves an act of undermining one's faith. The process becomes all the more objectionable when it is brought about by taking recourse to methods like allurement force, fraud and exploitation of one's poverty.

The Constitution of India has recognised right of practicing any faith of ones conscience and it is to be protected by State Vigilance.

Some times marriage frauds are disguised under conversions. The provisions of this Act are also supported by Section 366 to 368 and 493 to 498 of the IPC where crimes committed against women are protected.

The provisions of this Act are supported by the provisions of Article 25 of the Constitution of India.

Hence this Bill.

Gandhinagar,  
Dt. 30-8-1999.

**Pro. MANGALBHAI PATEL**  
M.L.A.

**FINANCIAL MEMORANDUM**

The provisions contained in the third proviso to clause 4 of the Bill provides for constituting special courts for disposal of cases under the Act.

The provisions of the Bill if enacted would involve a recurring annual expenditures of Rs. 20 Lacs from the consolidated Fund of the State.

Pro. MANGALBHAI PATEL  
M.L.A.

**MEMORANDUM REGARDING DELEGATED  
LEGISLATION**

Clause 8 of the Bill empowers the State Government to make rules to carry out the purposes of the Act.

The delegation of Legislative powers as aforesaid is of normal character.

Gandhinagar,  
Dt. 30-9-1999.

Pro. MANGALBHAI PATEL  
M.L.A.

Gandhinagar,  
Dated the 30th September, 1999.

K. M. PANCHAL,  
Secretary,  
Gujarat Legislative Assembly.

Government Central Press, Gandhinagar.